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LEGISLATIVE HISTORY

Public Law 87-30
H. R. 3935

TABLE OF CONTENTS

Index and summary of H. R. 3935	1
Digest of Public Law 87-30	2

INDEX AND SUMMARY OF H. R. 3935

- Feb. 7, 1961 House received President's proposed bill to amend The Fair Labor Standards Act.
- Rep. Roosevelt introduced and discussed H. R. 3935 which was referred to the House Education and Labor Committee. Print of bill as introduced and remarks of Rep. Roosevelt.
- Feb. 9, 1961 Sen. McNamara, et al, introduced S. 895 which was referred to the Labor and Public Welfare Committee. Print of bill as introduced.
- Feb. 28, 1961 House subcommittee ordered H. R. 3935 reported to the full committee.
- Mar. 13, 1961 House committee reported H. R. 3935 with an amendment. H. Report No. 75. Print of bill and report.
- Mar. 15, 1961 Senate subcommittee ordered S. 895 reported to the full committee without recommendation.
- Summary of H. R. 3935 as reported by the House committee.
- Mar. 21, 1961 Rules Committee reported resolution for the consideration of H. R. 3935. H. Report No. 182. H. Res. 229.
- Mar. 22, 1961 House began debate on H. R. 3935.
- Mar. 23, 1961 House continued debate on H. R. 3935.
- Mar. 24, 1961 House passed H. R. 3935 with amendments.
- Mar. 27, 1961 H. R. 3935 was referred to the Senate Labor and Public Welfare Committee.
- Apr. 11, 1961 Senate committee voted to report (but did not actually report) H. R. 3935, with an amendment in the nature of a substitute.
- Apr. 12, 1961 Senate committee reported H. R. 3935 with an amendment in the nature of a substitute. S. Report No. 145. Print of bill and report.
- Apr. 13, 1961 Senate began debate on H.R. 3935.
- Apr. 14, 1961 Senate continued debate on H. R. 3935.
- Apr. 18, 1961 Senate continued debate on H. R. 3935.

INDEX AND SUMMARY OF H. R. 3935, continued

Apr. 19, 1961 Senate continued debate on H. R. 3935.

Apr. 20, 1961 Senate passed H. R. 3935 with amendments.
Print of H. R. 3935 as passed by Senate with
Senate amendments numbered.

Apr. 24, 1961 House and Senate conferees were appointed.

May 1, 1961 Conferees agreed to file a report.

May 2, 1961 House received conference report on H. R.
3935. H. Report No. 327. Print of report.

May 3, 1961 Both Houses agreed to the conference report.

May 5, 1961 Approved: Public Law 87-30.

Hearings: House Education and Labor Committee
on H. R. 3935.

DIGEST OF PUBLIC LAW 87-30

FAIR LABOR STANDARDS AMENDMENTS OF 1961. Amends the Fair Labor Standards Act of 1938 to provide coverage for additional employees, increase the minimum wage for presently covered employees gradually to \$1.25 per hour within 2 years, and increase the minimum wage for newly covered employees to \$1.25 an hour over a 5-year period. Exempts workers who may occasionally engage in livestock auction operations as an adjunct to their regular work of raising livestock, workers employed at country elevators that market farm products for farmers if not more than 5 employees are employed at the elevator, workers engaged in ginning cotton for market at any location in a county where cotton is grown in commercial quantities, workers engaged in processing shade-grown tobacco for use as cigar wrapper tobacco if the workers are engaged in the growing and harvesting of such tobacco, and workers engaged in the transportation of fruits and vegetables from the farm to a place of first processing or first marketing within the same State and the transportation between the farm and any point within the same State of workers employed or to be employed in the harvesting of the commodity.

Requires the Secretary of Labor, when he has reason to believe employment in an industry under the Act has decreased or is likely to decrease because of foreign competition, to investigate the matter and report to the President and Congress.

Requires the Secretary of Labor to study the system of exemptions now available for handling and processing of agricultural products and to submit to the second session of the 87th Congress a report on the results of the study, with recommendations for further legislation designed to simplify and remove inequities in the application of such exemptions.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

CONTENTS

Issued February 8, 1961
For actions of February 7, 1961
87th-1st, No. 23

Adjournment.....	6.
Agriculture Committee.....	5
ASC committees.....	17
Buildings.....	11
Committee assignments.....	3
Conservation.....	23
Disaster loans.....	25
Economic growth.....	10
Farm loans.....	25
Farm program.....	7
Food additives.....	21
Foreign currencies.....	9
Fruits and vegetables.....	1,8
Holidays.....	15,24
Labor standards.....	1,16
Lands.....	23
Imports.....	12
Marketing orders.....	27

Milk.....	27
Minerals.....	23
Minimum wage.....	1,16
Nomination.....	2
Personnel.....	4,15,17
Public debt.....	20
Reclamation.....	13
Recreation.....	26
Retirement.....	15,17
Sugar.....	18
Water.....	19
Wool.....	14

HIGHLIGHTS: House received President's proposed minimum wage bill.

HOUSE

- 1. MINIMUM WAGES.** Received from the President a proposed bill to amend the Fair Labor Standards Act so as to increase the minimum wage gradually to \$1.25 an hour and to provide coverage for additional groups of employees of large enterprises engaged in retail trade or service. p. 1739
Rep. Roosevelt inserted the text and an explanation of the provisions of the proposed bill. The proposal continues the 14-week seasonal industry exemption under which overtime payment is not required except for work in excess of 12 hours a day or 56 hours a week. Also the proposal provides a 14-workweek exemption for the first processing, etc., of fresh fruits or vegetables and the first processing in the area of production of any agricultural or horticultural commodity during seasonal operations. pp. 1729-4
- 2. NOMINATION.** Rep. Miller, Calif., commended the nomination of Dr. James Ralph to be an Assistant Secretary of Agriculture and stated that he is one of the ablest agricultural administrators in the country. p. 1723
- 3. COMMITTEE ASSIGNMENTS.** The Speaker announced the appointments of Reps. Patman, Bolling, Boggs, Reuss, Griffiths, Curtis, Kilburn, and Widnall as members of the Joint Economic Committee. p. 1725

4. PERSONNEL. Rep. Johansen expressed concern over reports that career civil service employees in the executive branch "have been the target of the revival of the spoils-system tactics in the form of resignation requests," and stated that he would request an investigation of these reports (p. 1726). Reps. McCormack, Cederberg, Hoffman, and Gross also discussed this matter (p. 1727).
5. AGRICULTURE COMMITTEE. The Rules Committee reported without amendment H. Res. 86, authorizing studies and investigations by the Agriculture Committee. p. 1739
6. ADJOURNED until Thurs., Feb. 9. p. 1739

ITEMS IN APPENDIX

7. FARM PROGRAM. Rep. Findley inserted a newspaper editorial which stated that there would be no new farm program for at least a year or two. p. A785
Rep. Ullman inserted a newspaper article which emphasized the importance of agriculture to Oregon, not only in the production of food and fiber, but also in the creation of other jobs. p. A799.
8. VEGETABLES. Extension of remarks by Rep. Cederberg announcing that Michigan is still the Nation's No. 1 bean producer. pp. A772-3
9. FOREIGN CURRENCIES. Extension of remarks by Rep. Cooley commending the use of a part of the foreign currencies received from the sale of surplus agricultural commodities for U. S. business expansion abroad. pp. A778-80
10. ECONOMIC RECOVERY AND GROWTH. Extension of remarks of Rep. Roosevelt commending the President's proposals for a food stamp plan and a minimum wage increase. pp. A790-1

BILLS INTRODUCED

11. BUILDINGS. H. R. 3939, by Rep. Ashley, to provide for suitable works of art in Federal buildings; to Public Works Committee.
H.R. 3940, by Rep. Ashley, to provide that the Secretary of the Interior shall save historic buildings owned by the United States; and to provide that the Administrator of General Services shall be responsible for preserving and restoring certain works of art owned by the United States and for high standards of architectural design and decoration for Federal public buildings; to Public Works Committee.
2. IMPORTS. H. R. 3985, by Rep. Knox, to amend the Tariff Act of 1930 to impose a duty upon the importation of bread; to Ways and Means Committee.
H. R. 3986, by Rep. Knox, to regulate the foreign commerce of the United States by establishing quantitative restrictions on the importation of hardwood plywood; to Ways and Means Committee.
3. RECLAMATION. H.R. 3957, by Rep. Cunningham, to authorize the Secretary of the Interior to construct, operate, and maintain the mid-State reclamation project, Nebraska; to Interior and Insular Affairs Committee.
H. R. 3991, by Rep. Libscomb, to authorize the Secretary of the Interior to construct, operate, and maintain the Bridge Canyon project; to Interior and Insular Affairs Committee.
11. WOOL. H. R. 3992, by Rep. May, and H. R. 3993, by Rep. Clem Miller, to extend the operation of the National Wool Act of 1954, as amended; to Agriculture Committee. Remarks of Rep. May pp. A774-5

ited component production of the Nike-Zeus system.

I ask unanimous consent that there be printed in the RECORD, at the conclusion of my remarks, the short lead article of the current issue of Army, page 29.

This Nation can never risk being either second best or half safe in matters affecting our security.

It is my hope that President Kennedy and his advisers will study these views of Air Force Lieutenant General Kuter as they concentrate on one of the most critical decisions of our time—the most dramatic action on the New Frontier in national defense—production of Nike-Zeus.

The article referred to follows:

NORAD'S CHIEF CALLS COUNTER TO ICBM MOST IMMEDIATE AND PRESSING NEED IN AIR DEFENSE OF CONUS

In aerospace defense we stand on the edge of the sixties, facing the air-breathing threat of today and looking forward to a tomorrow that holds the certainty of an ICBM threat, and not far distant, the requirement to defend against hostile satellites.

It was but 10 years ago that we actually embarked on an active air-defense program. It was in August 1949 that the first mushroom cloud blossomed behind the Iron Curtain signaling an end to U.S. atomic-weapons monopoly. Russian atomic-weapons ownership coupled with the initiation of the Korean conflict dispelled any doubts about the need for an effective air defense.

In the decade since 1950, planners have persevered. Requirements for weapons and systems were planned and stated. Planned improvements were invented, designed, developed, built, and placed in the hands of people trained to get the most out of them.

Today our current air-defense system has a respectable degree of capability against the air-breathing weapon threat. This system, under the operational control of the North American Air Defense Command, has resulted from a pooling of the best talent that the Army, Navy, Air Force, the Royal Canadian Air Force, and industry could muster.

However, now our most immediate and pressing requirement in aerospace defense is for a counter to the intercontinental ballistic missile.

At the present time, the most advanced project underway in this critical area is being conducted by the Army on the Nike-Zeus system. This project has experienced considerable success in its research and development program. The Department of Defense has announced future firing tests of the Zeus against ICBM targets of the Atlas and Titan types. Norad hopes that these tests will produce successes which will result in a decision to initiate production.

Additionally, the respective successes of the United States and the Soviet Union with satellites cast a shadow of significant portent. In order to avoid a future gap between our defensive capability and Russia's offensive capability similar to the present gap between our capability to defend against the Russian ICBM and their offensive ICBM capability, we must attack the problem of satellite defense with no less talent and vigor than the Russians are putting into their satellite program.

In aerospace the established defense functions of detection, identification, interception, and destruction must close the gap between the exploding perimeters of the overall aerospace concept.

Norad believes strongly that an acceptable degree of aerospace defense not only insures survival if deterrence should for any reason fail, but will provide the only effective deterrent if and when parity is established between offensive forces. Norad is

dedicated to the proposition that we shall be first to produce an acceptable degree of aerospace defense.

WAGE-HOUR LEGISLATION

(Mr. POWELL asked and was given permission to address the House for 1 minute.)

Mr. POWELL. Mr. Speaker, there has just been received from the administration a minimum-wage bill. As chairman of the Committee on Education and Labor, I assign this to my distinguished colleague from California [Mr. ROOSEVELT], and commend him for his untiring efforts in this field.

I yield to the gentleman from California.

Mr. ROOSEVELT. Mr. Speaker, I ask unanimous consent to revise and extend my remarks immediately following those of my distinguished chairman, the gentleman from New York, and, Mr. Speaker, I ask unanimous consent to include at the conclusion of my remarks the material included in the letter from the President to you, Mr. Speaker, which would include the letter from Secretary of Labor Goldberg to the President in explanation of the bill. Then I would ask unanimous consent to include the text of the bill at the conclusion of my remarks.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROOSEVELT. Mr. Speaker, at the request of the administration, I am today introducing its wage-hour proposals in the House of Representatives. These amendments to the Fair Labor Standards Act would provide an increase in the Federal minimum wage to \$1.15 an hour during the first year, \$1.20 during the second year, and \$1.25 thereafter for those employees who now have minimum wage protection.

It would also provide for those employees brought under the act for the first time, a minimum wage of not less than \$1 an hour during the first year, \$1.05 the second year, with time and one-half for hours in excess of 44 per week; \$1.15 the third year, with time and one-half for hours in excess of 42 a week; and \$1.25 thereafter, with time and one-half for hours in excess of 40 a week.

The President of the United States, in his economic message to the Congress on February 2, 1961, stated, in urging an increase in the minimum wage, that—

This will improve the incomes, level of living, morale, and efficiency of many of our lowest paid workers. * * * This can actually increase productivity and hold down unit costs, with no adverse effects on our competition in world markets and our balance of payments.

The bill also would extend minimum-wage protection to an additional 4.3 million employees, including 2.9 million in retail and service enterprises. This extension of the act's benefits would be accomplished, however, without deviating from its present interstate commerce basis of coverage. Individual employees "engaged in commerce or in the produc-

tion of goods for commerce" would continue to be covered by the act. In addition, a new category of employees—those employed in certain enterprises engaged in such activities, primarily in retailing—would be brought within the act's coverage.

The President, in his economic message on extension of coverage, said:

This will extend the wage standard throughout significant low-wage sectors of the labor market. * * * Together, these two principal changes in the Fair Labor Standards Act will go far to protect our lowest paid workers. The proposed minimum rates have been carefully set at levels which will benefit substantial numbers of underpaid workers, but not so high as to prevent ready adjustment to the new standards.

It is anticipated that brief minimum-wage-hour hearings will begin on Friday, February 17, 1961, with Secretary of Labor Goldberg.

Mr. Speaker, by unanimous consent of the House, I enclose, immediately following the letter of Secretary of Labor Goldberg, an explanation of the bill and the text of the bill.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
February 6, 1961.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am enclosing a draft bill to amend the Fair Labor Standards Act and a statement explaining its purpose and effect.

This bill is designed to carry out the recommendations outlined in your February 2 message for increasing the minimum wage and expanding the coverage of the act. It would raise the standards of the act to keep pace with our general economic progress and needs and extend its protection to an estimated 4.3 million additional workers.

More than 20 years have passed since Congress enacted the Fair Labor Standards Act in 1938 to provide a modest floor under wages and an equally modest ceiling over hours. A whole generation of Americans have entered our work force since Congress pledged itself to correct and as rapidly as practicable to eliminate labor conditions detrimental to the maintenance of minimum standards of living necessary for the health and general well-being of our workers. Unfortunately, for many American workers the conditions deplored by the 75th Congress are still with us today. We must not leave these workers with no more assurance in 1961 than they had in 1938 that their wages will provide the minimum standards of living to which they are entitled.

Our objective is clear—to provide a minimum living standard of \$1.25 an hour and to extend the protection of the act to employees of large enterprises engaged in commerce or in the production of goods for commerce.

The draft bill will accomplish this objective. It would expand the coverage of the act to include the following categories of enterprises engaged in commerce or in the production of goods for commerce:

1. Any enterprise which has one or more retail or service establishments if the annual volume of sales of the enterprise is not less than \$1 million (exclusive of excise taxes);
2. Any enterprise which has one or more establishments engaged in laundering, cleaning, or clothes repairing if the annual volume of sales of the enterprise is not less than \$1 million (exclusive of excise taxes);

3. Any enterprises engaged in a local transit business;

4. Any establishment not included in categories 1, 2, or 3, if the annual volume of sales of the establishment is not less than \$250,000 (\$350,000 in the case of construction), exclusive of excise taxes;

5. Any gasoline service establishment if the annual gross volume of sales of the establishment is not less than \$250,000.

Changes have been made in the exemptions provided in the act to adjust to the new coverage provisions. While workers in large retail and service establishments would be protected under the proposed bill, no change would be made in the present exempt status of hotels, motels, restaurants, and motion picture theaters. The new proposal would extend minimum wage protection to, but not change existing overtime exemptions for, onshore fish processing and gasoline service establishments.

The proposal would also increase the hourly minimum wage for employees who now have the protection of the \$1 minimum to \$1.15 the first year, \$1.20 the second year, and \$1.25 thereafter. For the newly covered employees an initial minimum wage of \$1 an hour would be provided, increased to \$1.05 the second year, \$1.15 the third year, and \$1.25 thereafter.

In addition, the bill would provide a three-step increase in existing wage orders in Puerto Rico and the Virgin Islands. Sixty days after the effective date of the amendments or 1 year after the effective date of the most recent wage order, whichever is later, these rates would be increased by 15 percent. One year after the 15 percent increase goes into effect the rates would be increased by 5 percent, and a year later by an additional 5 percent. However, different rates would apply if they are recommended by review committees, to be appointed under the procedures set forth in the bill.

The minimum wage rates for employees in these islands who would for the first time be brought under the act would be established by wage orders recommended by special industry committees appointed by the Secretary of Labor within 60 days after the enactment of the amendments.

No maximum hours requirements would be established for newly covered employees during the first year so that their employers could make the initial adjustment to the minimum wage before being required to comply with an overtime provision. Subsequently, employers of the newly covered workers would have 2 years in which to adjust to the 40-hour workweek standard.

Finally, the bill would amend the act to provide for more effective enforcement of its provisions by authorizing the courts, in injunction proceedings, to order the payment of minimum wages or overtime compensation found by the courts to be due employees.

These changes proposed in this bill are comparatively modest in nature. They have been needed for a long time. Their merits were fully demonstrated in hearings, deliberations and debate on amendments to the Fair Labor Standards Act during the 86th Congress, last year. I recommend them to you now as viable proposals on which Congress can act effectively and expeditiously.

Respectfully yours,

ARTHUR J. GOLDBERG,
Secretary of Labor.

STATEMENT IN EXPLANATION OF THE FAIR LABOR STANDARDS AMENDMENTS OF 1961

The bill would provide urgently needed improvements in the Fair Labor Standards Act by extending its protection to millions of Americans working in the large enterprises of our country and raising its standards to keep pace with our general economic progress and needs.

The bill would provide an increase in the Federal minimum wage to \$1.15 an hour during the first year after the effective date of the amendments, \$1.20 during the second year, and \$1.25 thereafter for workers who now have minimum wage protection under the act.

It would also provide a minimum wage of not less than \$1 an hour during the first year, \$1.05 the second year (with time and one-half for hours in excess of 44 in a week), \$1.15 the third year (with time and one-half for hours in excess of 42 a week) and \$1.25 thereafter (with time and one-half for hours in excess of 40 a week) for employees who would be brought under the protection of the act.

Each of the wage order rates in Puerto Rico and the Virgin Islands would be increased by 15 percent, 60 days after the effective date of the amendments or 1 year from the effective date of the most recent wage order, whichever is later. A year after the 15-percent increase these rates would be increased an additional 5 percent, and 2 years later by another 5 percent. These increases would be superseded if, under the procedures outlined in the bill, a review committee is appointed by the Secretary of Labor for a particular industry and the committee recommends a different rate.

The minimum wage rates applicable to employees of these islands who would be brought under the act for the first time would be established by a wage order effective no sooner than 60 days after the effective date of the amendments. This order would be issued pursuant to the recommendations of a special industry committee which the Secretary of Labor would be required to appoint within 60 days after enactment of the amendments.

In addition, the bill would (1) broaden the coverage of the act by extending its provisions to include employees of five different categories of enterprises engaged in commerce or in the production of goods for commerce; and (2) provide more effective procedures for enforcing the act.

1. MINIMUM WAGE PROVISIONS

Since March 1956, the effective date of the \$1 minimum, the Consumer Price Index has increased by 11 percent. During the 4 years, 1956 to 1959, the real product per man-hour in the private sector of the economy increased by 11 percent. (Estimates for 1960 are not yet available.) Since March 1956, average hourly earnings in manufacturing have increased by 19 percent. The increase in earnings of the average factory worker has been large enough to both offset the increase in the cost of living and to provide such worker with a roughly proportionate share of the benefits of increased productivity. In contrast, workers whose wage rates are at the minimum wage level have not benefited from the upward movement of the American economy. Also, workers whose wages have remained at the minimum since the \$1 rate became effective have suffered a decline in real earnings because of the increase in the cost of living.

The adjustments in the minimum wage rate provided by the bill would restore the original value of the \$1 minimum in terms of purchasing power, and also allow workers whose wages are at the minimum level to share in the benefits of the increased productivity of the economy.

This schedule of minimum rates for workers now protected by the act is the same as provided in the bill passed by the Senate on August 18, 1960. A year ago it was estimated that an increase in wage payments of \$452 million would be required to raise to \$1.15 the wages of the estimated 2,420,000 employees who were paid less than that amount. Special wage surveys conducted by the Department of Labor in the fall of

1960 indicate that the impact of these rates would be substantially less than was estimated a year ago. It is now estimated that an increase in wage payments of \$336 million, on an annual basis, would be required to raise to \$1.15 the wages of the 1,906,000 covered employees who are now paid less than that amount. This substantial reduction in the indicated wage impact of a minimum rate of \$1.15 should remove any doubt as to the ability of employers to adjust to a 15-cent increase immediately without substantially curtailing employment.

During the second year, the 1,906,000 employees now paid less than \$1.15 an hour and the 511,000 who are paid between \$1.15 and \$1.20 would receive wages amounting to \$558 million more than they are now being paid. After the second year, these 2,417,000 workers and the 604,000 who are now paid between \$1.20 and \$1.25 would receive wages amounting to \$836 million more than they are now being paid.

For newly protected workers, the initial minimum wage rate would be \$1 an hour. The rate would be increased to \$1.05 after 1 year, to \$1.15 after 2 years, and to \$1.25 after 3 years. Thus, employers of the newly protected workers would be allowed 3 years to make the adjustment to the \$1.25 minimum rate to insure that the adjustment could be made without substantial curtailment of employment.

Although the minimum rate of \$1.25 for newly protected workers would not be established before 3 years had elapsed, low paid workers would receive substantial increases in wages before that time. During the first year, the 804,000 workers who are paid less than \$1 would receive wage increases amounting to \$242 million. During the second year, these 804,000 workers and the 147,000 who are paid between \$1 and \$1.05 would receive increases to \$1.05 amounting to \$100 million on an annual basis. During the third year, these 951,000 workers and the 389,000 who are paid between \$1.05 and \$1.15 would receive increases to \$1.15, amounting to \$234 million. During the 4th year, these 1,340,000 workers and 325,000 who are paid between \$1.15 and \$1.25 would receive increases to \$1.25, amounting to \$293 million. Thus, the 1,665,000 employees who are now paid less than \$1.25 an hour would, after 3 years, be receiving annually \$867 million more than they are now being paid.

2. OVERTIME PROVISIONS

The bill would retain the 40-hour workweek standard for employees now protected by the act.

For newly protected workers, no maximum hours requirement would be established during the first year so that their employers could make the initial adjustment to the minimum wage before being required to comply with an overtime provision. Subsequently, employers would be allowed 2 years in which to adjust to a 40-hour workweek. During the second year after its effective date, the bill would require that the newly protected workers be paid one and one-half times their regular rates of pay for hours over 44 in a workweek, during the third year for hours over 42, and thereafter for hours over 40. Except for the 1-year delay this maximum workweek schedule corresponds with that of the original act of 1938, which also provided a 44-hour workweek during the first year, a 42-hour workweek during the second year, and a 40-hour workweek thereafter.

3. EXPANSION OF COVERAGE

The bill would extend minimum wage protection to an additional 4.3 million employees, including 2.9 million employees in retail and service enterprises. It would also extend the overtime and child labor provisions of the act. This extension of the act's

benefits would be accomplished, however, without deviating from its present interstate commerce basis of coverage. Individual employees engaged in commerce or in the production of goods for commerce would continue to be covered by the act. In addition, a new category of employees—those employed in certain enterprises engaged in such activities—would be brought within the act's coverage.

"Enterprise" would mean the related activities performed by any person for a common business purpose of providing goods or services, or a combination of them, to others. It would include all such activities, whether they were performed in one or more establishments or by one or more corporate or other organizational units. However, the term as used in the bill does not include eleemosynary, religious or educational organizations not operated for profit.

A locally owned and controlled retail or service establishment would not be considered other than a separate enterprise because of a franchise or group purchasing or group advertising arrangement with other establishments, or because it occupies premises leased to it by a person who also leases premises to other establishments.

Under the bill the term "enterprise engaged in commerce or in the production of goods for commerce" includes five specifically described categories in which one or more employees are so engaged, including employees who handle, sell, or otherwise work on goods that have been moved in or produced for commerce by any person. If an enterprise comes within one of these five categories, all of its employees are covered regardless of their duties. However, employees of certain of the enterprises would continue to be exempt from the act's minimum wage and overtime provisions, and still others would be exempt from the overtime provisions only.

The first category of new coverage is any enterprise which has one or more retail or service establishments if the enterprise has at least \$1 million in annual gross volume of sales, exclusive of excise taxes at the retail level which are separately stated.

The second category is any enterprise which has one or more establishments engaged in laundering, cleaning, or clothes repairing if the enterprise has at least \$1 million in annual gross volume of sales, exclusive of excise taxes at the retail level which are separately stated.

The third category is any enterprise where the employer is engaged in operating a street, suburban, or interurban electric railway or local trolley or motorbus carrier, regardless of sales volume.

The fourth category is any establishment not included in any of the enterprises listed above which has an annual gross volume of sales of at least \$250,000 (\$350,000 in the case of an establishment engaged in construction), exclusive of excise taxes at the retail level which are separately stated.

The fifth category is any gasoline service establishment having an annual gross volume of sales of at least \$250,000.

A proviso to the definition of "enterprise engaged in commerce or in the production of goods for commerce" would exclude so-called mom and pop stores. Under its provisions, if the only employees of an establishment are its owner or persons standing in the relationship of parent, spouse, or child of such owner, the establishment would not be considered as, or part of, such an enterprise and its sales would not be included for the purpose of determining whether an enterprise is in one of the categories heretofore mentioned.

4. DEFINITIONS

Apart from the definitions already referred to in connection with coverage, the definition of wage in section 3(m) of the act would

be modified by giving the Secretary authority to determine the fair value of facilities furnished by the employer on the basis of average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. The bill also provides that the cost of board, lodging, or other facilities would not be included as a part of wages if excluded by a bona fide collective bargaining agreement.

The bill would add a new section 3(p) to the act defining "American vessel" as a vessel which is documented or numbered under the laws of the United States. An amendment to section 6(b) of the act would require the payment to seamen on American vessels of not less than the rate which will provide them, for the period covered by the wage payment, wages equal to compensation at the minimum hourly rate applicable to other employees newly subject to the act. Off-duty periods provided by employment agreements or periods when the employee is not at the direction of a superior officer either performing work or standing by would be excluded from hours worked.

5. EXEMPTIONS

The minimum wage and overtime exemptions provided by sections 13(a)(2), 13(a)(4), and 13(a)(13) of the act for certain retail or service establishments would be made inapplicable to employees of enterprises meeting the new coverage test provided by the bill, with the following exceptions: (1) Employees of motion picture theaters; and (2) employees of hotels, motels, or restaurants.

In addition to making the minimum wage and overtime exemption in section 13(a)(3) inapplicable in laundry and cleaning establishments of enterprises which have annual receipts of \$1 million or more, the bill would remove the exemption for employees of laundry and cleaning establishments which have annual sales of between \$250,000 and \$1 million and which are in substantial competition in the same metropolitan area with an establishment that does at least 50 percent of its business in interstate commerce.

The minimum wage and overtime exemption for employees employed in a local retailing capacity would be removed.

The minimum wage exemption applicable to employees engaged in fish processing and distributing fish and related products would be limited to offshore activities.

The minimum wage and overtime exemption for switchboard operators in any public telephone exchange with no more than 750 stations would be replaced with an exemption for operators in any independently owned public telephone exchange which has no more than 750 stations.

The minimum wage exemption for employees of local transit companies would be removed.

The minimum wage exemption for seamen would be made inapplicable to seamen employed on a vessel which is documented or numbered under the laws of the United States.

An overtime exemption would be added for employees of gasoline service stations.

An overtime exemption would be added for salesmen of automobiles and trucks employed by a retail or service establishment.

The 14-week seasonal industry exemption under which overtime payment is not required except for work in excess of 12 hours a day or 56 hours a week would continue. The bill would also provide a 14-workweek exemption (with same hours of work limitation as referred to above) for the first processing, etc., of fresh fruits or vegetables and the first processing in the area of production of any agricultural or horticultural commodity during seasonal operations. If an industry qualifies for both exemptions it would

be eligible for an aggregate of 20 weeks in any calendar year, of which not more than 10 weeks may be of unlimited hours, and 10 weeks of limited hours.

6. AMENDMENT TO PROVIDE MORE EFFECTIVE PROCEDURES FOR ENFORCING THE PROVISIONS OF THE ACT

Under the present provisions of the act, the Secretary of Labor has no authority to require the payment of minimum wages and overtime compensation not paid in compliance with the law, except where an employee requests that an action be brought by the Secretary. The bill therefore also includes an amendment to the act which would establish a more effective method of enforcing the act by authorizing the Federal courts to order the payment of the actual amount of unpaid minimum wages or overtime compensation to employees in injunctive actions brought under section 17. In this way, employers found by the courts to be unlawfully withholding from employees minimum wages and overtime compensation owing under the act could be required to make payments of the amounts found due by the courts, without the necessity of the employee or employees involved initiating or requesting such action.

In calendar year 1960 investigative activities of the Wage and Hour and Public Contracts Divisions revealed an estimated \$30 million in unpaid minimum wages and overtime compensation for nearly 200,000 employees. Of this amount, \$16 million has not been paid, and the Secretary has no authority, in the absence of an employee request, to require payment.

Since the Department of Labor can make compliance investigations of only approximately 5 percent of all currently covered establishments in 1 year, the investigations undertaken must have a spreading effect. If an adequate level of compliance with the law is to be achieved, these investigations must result in continuing compliance in establishments investigated and also in furthering compliance in uninvestigated establishments.

The proposed amendment would make these investigations much more effective by providing a practical method for requiring payment of the amounts of any wages or overtime compensation which an employer has failed or refused to pay, as required by the act. Placing the probability of financial liability on those employers who are presently careless of their obligations under the act would increase the level of compliance with the statute, and would protect complying employers from the unfair wage competition of the noncomplying employers.

A BILL TO AMEND THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED, TO PROVIDE COVERAGE FOR EMPLOYEES OF LARGE ENTERPRISES ENGAGED IN RETAIL TRADE OR SERVICE AND OF OTHER EMPLOYERS ENGAGED IN COMMERCE OR IN THE PRODUCTION OF GOODS FOR COMMERCE, TO INCREASE THE MINIMUM WAGE UNDER THE ACT TO \$1.25 AN HOUR, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Labor Standards Amendments of 1961."

DEFINITIONS

SEC. 2. (a) Paragraph (m) of section 3 of such Act, defining the term "wage", is amended by inserting before the period at the end thereof a colon and the following: "Provided, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further*, That the Secretary

is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee."

(b) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs:

"(p) 'American vessel' includes any vessel which is documented or numbered under the laws of the United States.

"(q) 'Secretary' means the Secretary of Labor.

"(r) 'Enterprise' means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That within the meaning of this subsection a locally owned and controlled retail or service establishment shall not be deemed to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not limited to, an agreement (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other locally owned and controlled concerns in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

"(s) 'Enterprise engaged in commerce or in the production of goods for commerce' means any of the following in the activities of which one or more employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

"(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

"(2) any such enterprise which has one or more establishments engaged in laundering, cleaning, or repairing clothing or fabrics if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

"(3) any such enterprise which is engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier;

"(4) any establishment, not included in an enterprise described in paragraph (1), (2), or (3) of this subsection, if the annual gross volume of sales of such establishment is not less than \$250,000 (or \$350,000 in the case of an establishment engaged in the business of construction or reconstruction, or both), exclusive of excise taxes at the retail level which are separately stated;

"(5) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000:

Provided, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce, or a part of an enterprise engaged in commerce or in the production of

goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner."

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 3. Subsection (a) of section 5 of such Act is amended by inserting after the words "production of goods for commerce" wherever they appear the following: "or employed in any enterprise engaged in commerce or in the production of goods for commerce."

MINIMUM WAGES

SEC. 4. (a) (1) Section 6(a) of such Act is amended by inserting after the word "who" in the portion thereof preceding paragraph (1), the words "in any workweek."

(2) Paragraph (1) of section 6(a) of such Act is amended to read as follows:

"(1) not less than \$1.15 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1961; not less than \$1.20 an hour during the second year from such date; and not less than \$1.25 an hour thereafter, except as otherwise provided in this section."

(3) The first sentence of paragraph (3) of section 6(a) of such Act is amended to read as follows:

"(3) if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time."

(b) Subsection (b) of section 6 of such Act is amended to read as follows:

"(b) Every employer shall pay to each of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1), (2), or (3) or in an establishment described in section 3(s) (4) or (5), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at rates—

"(1) not less than \$1 an hour during the first year from the effective date of such amendments; not less than \$1.05 an hour during the second year from such date; not less than \$1.15 an hour during the third year from such date; and not less than the rate effective under paragraph (1) of subsection (a) thereafter;

"(2) if such employee is employed as a seaman on an American vessel, wages at not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (not including off-duty periods within such period which are provided pursuant to the employment agreement or periods aboard ship when the employee was not on watch and was not, at the direction of a superior officer, either performing other work or standing by)."

(c) Subsection (c) of section 6 of such Act is amended to read as follows:

"(c) The rate or rates provided by subsections (a) and (b) of this section shall be

superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5: *Provided*, That (1) the following rates shall apply to any such employee to whom the rate or rates prescribed by subsection (a) would otherwise apply:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, increased by 15 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (D). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1961 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) During the second year after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (D).

"(C) During the third year after the applicable effective date under paragraph (B), not less than the rate or rates prescribed by paragraph (B), increased by 5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (D).

"(D) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A), (B), or (C). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1961 and any such application with respect to any rate or rates provided for under paragraph (B) or (C) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B) or (C). The Secretary shall promptly consider such application and may appoint a review committee only if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A), (B), or (C) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A), (B), or (C).

"(E) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A), (B), or (C), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (D) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

"(2) In the case of any such employee to whom subsection (b) would otherwise apply, the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates, in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1961.

"(3) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that (i) no special industry committee shall hold any hearing with one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) and (ii) where an increase in the minimum wage rate or rates provided for in paragraph (B) or (C) shall have become effective for such industry without an application having been filed under paragraph (D), no special industry committee for such industry shall hold any hearing within one year after such an increase shall have become effective. The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee."

MAXIMUM HOURS

SEC. 5. (a) Subsection (a) of section 7 of such Act is amended by designating such subsection as subsection (a) (1), by inserting after the word "who" the words "in any workweek", and by striking out the period at the end thereof and inserting a semicolon and the word "and" in lieu thereof and adding the following new paragraph (2):

"(2) No employer shall employ any of his employees who in any workweek (1) is em-

ployed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1), (2), or (3), or in an establishment described in section 3(s) (4), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this subsection, or (ii) is brought within the purview of this subsection by the amendments made to section 13 of this Act by the Fair Labor Standards Amendments of 1961—

"(A) for a workweek longer than forty-four hours during the second year from the effective date of the Fair Labor Standards Amendments of 1961,

"(B) for a workweek longer than forty-two hours during the third year from such date,

"(C) for a workweek longer than forty hours after the expiration of the third year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."

(b) (1) Subsection (b) of section 7 of such Act is amended by striking out "in excess of forty hours in the workweek" in paragraph (2) and inserting in lieu thereof the following: "in excess of the maximum workweek applicable to such employee under subsection (a)."

(2) Such subsection is further amended by striking out clause (3) thereof and the portion of such subsection which follows clause (3) and inserting in lieu thereof the following:

"(3) for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year (i) in an industry found by the Secretary of Labor to be of a seasonal nature, or (ii) in an industry engaged in the first processing of, or in canning or packing perishable or seasonal fresh fruits or vegetables, or in the first processing, within the area of production (as defined by the Secretary), of any agricultural or horticultural commodity during seasonal operations, or in handling, slaughtering, or dressing poultry or livestock: *Provided*, That in any industry to which both clauses (i) and (ii) apply, such period shall not exceed ten workweeks in the aggregate in any calendar year,

and if such employee receives compensation for employment in excess of twelve hours in any workday, or for employment in excess of fifty-six hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed. In the case of any employee employed in an industry to which both (i) and (ii) of clause (3) apply, the provisions of subsection (a) shall not apply during a period or periods of not more than ten workweeks in the aggregate in any calendar year, which shall be in addition to the period or periods provided with respect to such employee in clause (3)."

(c) Subsection (c) of section 7 of such Act is amended by striking out everything therein after the semicolon and inserting in lieu of the semicolon a period.

(d) Paragraph (5) of subsection (d) of section 7 of such Act is amended by striking out "forty in a workweek" and inserting in lieu thereof the following: "in excess of the maximum workweek applicable to such employee under subsection (a)."

(e) Paragraph (7) of subsection (d) of section 7 of such Act is amended by striking out "forty hours" and inserting in lieu thereof the following: "the maximum workweek applicable to such employee under subsection (a)".

(f) Subsection (e) of section 7 of such Act is amended (1) by striking out "forty hours" and inserting in lieu thereof "the maximum workweek applicable to such employee under subsection (a)", (2) by striking out "section 6(a)" and inserting in lieu thereof "subsection (a) or (b) of section 6 (whichever

may be applicable)", and (3) by striking out "forty in any" and inserting in lieu thereof "such maximum".

(g) Subsection (f) of section 7 of such Act is amended by striking out "forty hours" both times it appears therein and inserting in lieu thereof the following: "the maximum workweek applicable to such employee under such subsection".

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 6. Subsection (a) of section 8 of such Act is amended by inserting after the word "industries" where it appears in the first sentence the words "or enterprise"; and by inserting after the words "production of goods for commerce" where they appear in the second sentence the following: "or in any enterprise engaged in commerce or in the production of goods for commerce".

CHILD-LABOR PROVISIONS

SEC. 7. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "or in any enterprise engaged in commerce or in the production of goods for commerce."

EXEMPTIONS

SEC. 8. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

"(a) The provisions of sections 6 and 7 shall not apply with respect to—

"(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act); or

"(2) any employee employed by any retail or service establishment (except an establishment, other than a hotel, motel, or restaurant, in an enterprise described in section 3(s) (1) or an establishment described in section 3(s) (5)), more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located. A 'retail or service establishment' shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

"(3) any employee employed by any establishment (except an establishment in an enterprise described in section 3(s) (2)) engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment's annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, or communications business: *Provided further*, That this exemption shall not apply to any employee of any such establishment which has an annual dollar volume of sales of such services of \$250,000 or more and which is engaged in substantial competition in the same metropolitan area with an establishment less than 50 per centum of whose annual dollar volume of sales of such services is made within the State in which it is located; or

"(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or

"(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning, or packing such marine products at sea as an incident to or in conjunction with such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employees; or

"(6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit or operated on a sharecrop basis, and which are used exclusively for supply and storing of water for agriculture purposes; or

"(7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or

"(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where printed and published or counties contiguous thereto; or

"(9) any employee employed in a motion picture theater; or

"(10) any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or

"(11) any switchboard operator employed by an independently owned public telephone exchange which has not more than seven hundred and fifty stations; or

"(12) any employee of an employer engaged in the business of operating taxicabs; or

"(13) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

"(14) any employee employed as a seaman on a vessel other than an American vessel; or

"(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve.

"(b) The provisions of section 7 shall not apply with respect to—

"(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

"(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

"(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

"(4) any employee employed in the canning, processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or

"(5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

"(6) any employee employed as a seaman; or

"(7) any employee of a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, not included in other exemptions contained in this section; or

"(8) any employee employed as an automobile salesman by a retail or service establishment engaged in the business of selling automobiles or trucks; or

"(9) any employee of a gasoline service station."

PENALTIES AND INJUNCTION PROCEEDINGS

SEC. 9. (a) Section 16(b) of such Act is amended by adding at the end thereof a new sentence as follows: "The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection."

(b) Section 17 of such Act is amended to read as follows:

"INJUNCTION PROCEEDINGS

"SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15(a) (2) the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947)."

EFFECTIVE DATE

SEC. 10. The amendments made by this Act shall take effect upon the expiration of 120 days after the date of its enactment, except as otherwise provided and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act.

The SPEAKER. The time of the gentleman from New York has expired.

(Mr. McCORMACK asked and was given permission to address the House for 1 minute.)

Mr. McCORMACK. Mr. Speaker, bills dealing with minimum wages and a broadening of the coverage of such bills have had extensive hearings in past years. In view of this I take it my friend is not going to hold such extensive hearings this year as have been held in the past.

Mr. ROOSEVELT. I would say to my distinguished majority leader that it would seem to me such extensive hearings would not be necessary in view of the voluminous testimony already taken on the subject. The bill is substantially in accordance with those of previous sessions. I would assume that hearings could be concluded in a relatively short time.

MISSILES

The SPEAKER. Under previous order of the House, the gentleman from Indiana [Mr. BRAY] is recognized for 5 minutes.

Mr. BRAY. Mr. Speaker, this morning's Washington Post carried a front-page article written by a staff reporter, that should be of interest to all, especially those who have been led to believe and are saying that America is becoming second class, that we are militarily inferior to Russia and that there is a great missile lag that endangers our country:

Current defense studies by the Kennedy administration indicate that President Eisenhower's downgrading of the dangers of the Soviet missile lead was largely correct, although some stepup in U.S. programs is essential.

Conclusions now are that there is no evidence that Russia has embarked on a "crash" program of building intercontinental ballistic missiles or that any missile gap exists today.

CONCLUSION BACKS IKE

The conclusions reached about the missile gap and the dangers it presented are similar to those reached by President Eisenhower and his Pentagon chiefs, and quite different from claims made by many Democratic critics in recent years.

During the political campaign, Mr. Kennedy was critical of the Eisenhower military record, but did not go as far as some other Democrats in talking about the danger of the missile gap.

This account is especially interesting considering that this newspaper was an aggressive supporter of candidate Kennedy and is now a strong supporter of his administration.

It is indeed fortunate that the accusations of American weakness are being clarified and identified, that is, as political propaganda. For more than 4 years many in Congress, including myself, have been emphasizing the facts of America's growing and formidable military strength.

It is true that our long-distance surface-to-surface missile program was cancelled in 1947 and was only recommenced in a strong manner in 1953, but it is a fact that our growth in development and production of military missiles in the last 8 years is one of America's really great technological achievements. A recent instance was the successful testing of the Minuteman, one of our most modern and mobile missiles, which was completed 2½ years ahead of schedule. Our missile programs are replete with stories of fantastic progress and success.

I believe the true facts of American strength and weakness should be brought to the attention of our people, but that information should be real and factual, not an attempt to downgrade America for political reasons nor to frighten the American people into demanding certain weapons because some missile salesman wants to sell them.

"The truth shall make you free" is as applicable to defense facts as it is to anything else. Now that the campaign is over, perhaps we can have a refreshing return to truth.

87TH CONGRESS
1ST SESSION

H. R. 3935

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 1961

Mr. ROOSEVELT introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Fair Labor Standards
4 Amendments of 1961".

DEFINITIONS

SEC. 2. (a) Paragraph (m) of section 3 of such Act, defining the term “wage”, is amended by inserting before the period at the end thereof a colon and the following: “*Provided*, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further*, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee”.

(b) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs:

“(p) ‘American vessel’ includes any vessel which is documented or numbered under the laws of the United States.

“(q) ‘Secretary’ means the Secretary of Labor.

“(r) ‘Enterprise’ means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and in-

1 cludes all such activities whether performed in one or more
2 establishments or by one or more corporate or other organiza-
3 tional units but shall not include the related activities per-
4 formed for such enterprise by an independent contractor:
5 *Provided*, That, within the meaning of this subsection, a
6 locally owned and controlled retail or service establishment
7 shall not be deemed to be other than a separate and distinct
8 enterprise by reason of any arrangement, which includes,
9 but is not limited to, an agreement (1) that it will sell, or
10 sell only, certain goods specified by a particular manufacturer,
11 distributor, or advertiser, or (2) that it will join with other
12 locally owned and controlled concerns in the same industry
13 for the purpose of collective purchasing, or (3) that it will
14 have the exclusive right to sell the goods or use the brand
15 name of a manufacturer, distributor, or advertiser within a
16 specified area, or by reason of the fact that it occupies
17 premises leased to it by a person who also leases premises
18 to other retail or service establishments.

19 “(s) ‘Enterprise engaged in commerce or in the produc-
20 tion of goods for commerce’ means any of the following in
21 the activities of which one or more employees are so engaged,
22 including employees handling, selling, or otherwise working
23 on goods that have been moved in or produced for commerce
24 by any person:

25 “(1) any such enterprise which has one or more

1 retail or service establishments if the annual gross volume
2 of sales of such enterprise is not less than \$1,000,000,
3 exclusive of excise taxes at the retail level which are sepa-
4 rately stated;

5 “(2) any such enterprise which has one or more
6 establishments engaged in laundering, cleaning, or re-
7 pairing clothing or fabrics if the annual gross volume of
8 sales of such enterprise is not less than \$1,000,000, ex-
9 clusive of excise taxes at the retail level which are sepa-
10 rately stated;

11 “(3) any such enterprise which is engaged in the
12 business of operating a street, suburban, or interurban
13 electric railway, or local trolley or motorbus carrier;

14 “(4) any establishment, not included in an enter-
15 prise described in paragraph (1), (2), or (3) of this
16 subsection, if the annual gross volume of sales of such
17 establishment is not less than \$250,000 (or \$350,000
18 in the case of an establishment engaged in the business
19 of construction or reconstruction, or both), exclusive of
20 excise taxes at the retail level which are separately
21 stated;

22 “(5) any gasoline service establishment if the
23 annual gross volume of sales of such establishment is not
24 less than \$250,000;

25 *Provided*, That an establishment shall not be considered to be

1 an enterprise engaged in commerce or in the production of
2 goods for commerce, or a part of an enterprise engaged in
3 commerce or in the production of goods for commerce, and
4 the sales of such establishment shall not be included for the
5 purpose of determining the annual gross volume of sales of
6 any enterprise for the purpose of this subsection, if the only
7 employees of such establishment are the owner thereof or
8 persons standing in the relationship of parent, spouse, or
9 child of such owner.”

10 SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND
11 THE VIRGIN ISLANDS

12 SEC. 3. Subsection (a) of section 5 of such Act is
13 amended by inserting after the words “production of goods
14 for commerce” wherever they appear, the following: “or
15 employed in any enterprise engaged in commerce or in the
16 production of goods for commerce”.

17 MINIMUM WAGES

18 SEC. 4. (a) (1) Section 6 (a) of such Act is amended
19 by inserting after the word “who” in the portion thereof pre-
20 ceding paragraph (1), the words “in any workweek”.

21 (2) Paragraph (1) of section 6 (a) of such Act is
22 amended to read as follows:

23 “(1) not less than \$1.15 an hour during the first
24 year from the effective date of the Fair Labor Standards
25 Amendments of 1961; not less than \$1.20 an hour

1 during the second year from such date; and not less
2 than \$1.25 an hour thereafter, except as otherwise pro-
3 vided in this section.”

4 (3) The first sentence of paragraph (3) of section
5 6 (a) of such Act is amended to read as follows:

6 “(3) if such employee is employed in American
7 Samoa, in lieu of the rate or rates provided by this
8 subsection or subsection (b), not less than the applica-
9 ble rate established by the Secretary of Labor in ac-
10 cordance with recommendations of a special industry
11 committee or committees which he shall appoint in the
12 same manner and pursuant to the same provisions as
13 are applicable to the special industry committees pro-
14 vided for Puerto Rico and the Virgin Islands by this
15 Act as amended from time to time.”

16 (b) Subsection (b) of section 6 of such Act is amended
17 to read as follows:

18 “(b) Every employer shall pay to each of his employees
19 who in any workweek (i) is employed in an enterprise en-
20 gaged in commerce or in the production of goods for com-
21 merce, as defined in section 3 (s) (1), (2), or (3) or in an
22 establishment described in section 3 (s) (4) or (5), and
23 who, except for the enactment of the Fair Labor Standards
24 Amendments of 1961, would not be within the purview of
25 this section, or (ii) is brought within the purview of this

1 section by the amendments made to section 13 (a) of this
2 Act by the Fair Labor Standards Amendments of 1961,
3 wages at rates—

4 “(1) not less than \$1 an hour during the first year
5 from the effective date of such amendments; not less
6 than \$1.05 an hour during the second year from such
7 date; not less than \$1.15 an hour during the third year
8 from such date; and not less than the rate effective under
9 paragraph (1) of subsection (a) thereafter;

10 “(2) if such employee is employed as a seaman
11 on an American vessel, wages at not less than the rate
12 which will provide to the employee, for the period cov-
13 ered by the wage payment, wages equal to compensa-
14 tion at the hourly rate prescribed by paragraph (1) of
15 this subsection for all hours during such period when
16 he was actually on duty (not including off-duty periods
17 within such period which are provided pursuant to the
18 employment agreement or periods aboard ship when
19 the employee was not on watch and was not, at the
20 direction of a superior officer, either performing other
21 work or standing by).”

22 (c) Subsection (c) of section 6 of such Act is amended
23 to read as follows:

24 “(c) The rate or rates provided by subsections (a) and
25 (b) of this section shall be superseded in the case of any em-

1 ployee in Puerto Rico or the Virgin Islands only for so long
2 as and insofar as such employee is covered by a wage order
3 heretofore or hereafter issued by the Secretary pursuant to
4 the recommendations of a special industry committee ap-
5 pointed pursuant to section 5: *Provided*, That (1) the
6 following rates shall apply to any such employee to whom
7 the rate or rates prescribed by subsection (a) would other-
8 wise apply:

9 “(A) The rate or rates applicable under the most
10 recent wage order issued by the Secretary prior to the effec-
11 tive date of the Fair Labor Standards Amendments of 1961,
12 increased by 15 per centum, unless such rate or rates are
13 superseded by the rate or rates prescribed in a wage order
14 issued by the Secretary pursuant to the recommendations
15 of a review committee appointed under paragraph (D).
16 Such rate or rates shall become effective sixty days after
17 the effective date of the Fair Labor Standards Amendments
18 of 1961 or one year from the effective date of the most re-
19 cent wage order applicable to such employee theretofore
20 issued by the Secretary pursuant to the recommendations
21 of a special industry committee appointed under section 5,
22 whichever is later.

23 “(B) During the second year after the applicable effec-
24 tive date under paragraph (A), not less than the rate or
25 rates prescribed by paragraph (A), increased by an amount

1 equal to 5 per centum of the rate or rates applicable under
2 the most recent wage order issued by the Secretary prior
3 to the effective date of the Fair Labor Standards Amend-
4 ments of 1961, unless such rate or rates are superseded by
5 the rate or rates prescribed in a wage order issued by the
6 Secretary pursuant to the recommendations of a review
7 committee appointed under paragraph (D).

8 “(C) During the third year after the applicable effec-
9 tive date under paragraph (B), not less than the rate or rates
10 prescribed by paragraph (B), increased by 5 per centum of
11 the rate or rates applicable under the most recent wage order
12 issued by the Secretary prior to the effective date of the
13 Fair Labor Standards Amendments of 1961, unless such
14 rate or rates are superseded by the rate or rates prescribed
15 in a wage order issued by the Secretary pursuant to the
16 recommendations of a review committee appointed under
17 paragraph (D).

18 “(D) Any employer, or group of employers, employ-
19 ing a majority of the employees in an industry in Puerto
20 Rico or the Virgin Islands, may apply to the Secretary in
21 writing for the appointment of a review committee to rec-
22 ommend the minimum rate or rates to be paid such em-
23 ployees in lieu of the rate or rates provided by paragraph
24 (A), (B), or (C). Any such application with respect to

1 any rate or rates provided for under paragraph (A) shall
2 be filed within sixty days following the enactment of the
3 Fair Labor Standards Amendments of 1961 and any such
4 application with respect to any rate or rates provided for
5 under paragraph (B) or (C) shall be filed not more than
6 one hundred and twenty days and not less than sixty days
7 prior to the effective date of the applicable rate or rates under
8 paragraph (B) or (C). The Secretary shall promptly con-
9 sider such application and may appoint a review committee
10 only if he has reasonable cause to believe, on the basis of
11 financial and other information contained in the application,
12 that compliance with any applicable rate or rates prescribed
13 by paragraph (A), (B), or (C) will substantially curtail
14 employment in such industry. The Secretary's decision
15 upon any such application shall be final. Any wage order
16 issued pursuant to the recommendations of a review com-
17 mittee appointed under this paragraph shall take effect on
18 the applicable effective date provided in paragraph (A),
19 (B), or (C).

20 “(E) In the event a wage order has not been issued
21 pursuant to the recommendation of a review committee
22 prior to the applicable effective date under paragraph (A),
23 (B), or (C), the applicable percentage increase provided
24 by any such paragraph shall take effect on the effective
25 date prescribed therein, except with respect to the employ-

ees of an employer who filed an application under paragraph (D) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

“(2) In the case of any such employee to whom subsection (b) would otherwise apply, the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates, in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to

1 such employee upon the effective date of the wage order
2 issued pursuant to such recommendation but not before sixty
3 days after the effective date of the Fair Labor Standards
4 Amendments of 1961.

5 “(3) The provisions of section 5 and section 8, relating
6 to special industry committees, shall be applicable to review
7 committees appointed under this subsection. The appoint-
8 ment of a review committee shall be in addition to and not
9 in lieu of any special industry committee required to be ap-
10 pointed pursuant to the provisions of subsection (a) of sec-
11 tion 8, except that (i) no special industry committee shall
12 hold any hearing within one year after a minimum wage
13 rate or rates for such industry shall have been recommended
14 to the Secretary by a review committee to be paid in lieu
15 of the rate or rates provided for under paragraph (A) and
16 (ii) where an increase in the minimum wage rate or rates
17 provided for in paragraph (B) or (C) shall have become
18 effective for such industry without an application having been
19 filed under paragraph (D), no special industry committee
20 for such industry shall hold any hearing within one year after
21 such an increase shall have become effective. The minimum
22 wage rate or rates prescribed by this subsection shall be in
23 effect only for so long as and insofar as such minimum wage
24 rate or rates have not been superseded by a wage order fix-
25 ing a higher minimum wage rate or rates (but not in excess

1 of the applicable rate prescribed in subsection (a) or sub-
2 section (b)) hereafter issued by the Secretary pursuant to
3 the recommendation of a special industry committee.”

4 MAXIMUM HOURS

5 SEC. 5. (a) Subsection (a) of section 7 of such Act
6 is amended by designating such subsection as subsection
7 (a) (1), by inserting after the word “who” the words “in
8 any workweek”, and by striking out the period at the end
9 thereof and inserting a semicolon and the word “and” in lieu
10 thereof and adding the following new paragraph (2) :

11 “(2) No employer shall employ any of his employees
12 who in any workweek (i) is employed in an enterprise
13 engaged in commerce or in the production of goods for
14 commerce, as defined in section 3 (s) (1), (2), or (3),
15 or in an establishment described in section 3 (s) (4), and
16 who, except for the enactment of the Fair Labor Standards
17 Amendments of 1961, would not be within the purview of
18 this subsection, or (ii) is brought within the purview of this
19 subsection by the amendments made to section 13 of this Act
20 by the Fair Labor Standards Amendments of 1961—

21 “(A) for a workweek longer than forty-four hours
22 during the second year from the effective date of the
23 Fair Labor Standards Amendments of 1961,

1 “(B) for a workweek longer than forty-two hours
2 during the third year from such date,

3 “(C) for a workweek longer than forty hours after
4 the expiration of the third year from such date,
5 unless such employee receives compensation for his employ-
6 ment in excess of the hours above specified at a rate not less
7 than one and one-half times the regular rate at which he is
8 employed.”

9 (b) (1) Subsection (b) of section 7 of such Act is
10 amended by striking out “in excess of forty hours in the
11 workweek” in paragraph (2) and inserting in lieu thereof
12 the following: “in excess of the maximum workweek appli-
13 cable to such employee under subsection (a) ”.

14 (2) Such subsection is further amended by striking out
15 clause (3) thereof and the portion of such subsection which
16 follows clause (3) and inserting in lieu thereof the fol-
17 lowing:

18 “(3) for a period or periods of not more than four-
19 teen workweeks in the aggregate in any calendar year
20 (i) in an industry found by the Secretary of Labor to be
21 of a seasonal nature, or (ii) in an industry engaged in
22 the first processing of, or in canning or packing perish-
23 able or seasonal fresh fruits or vegetables, or in the first
24 processing, within the area of production (as defined by
25 the Secretary), of any agricultural or horticultural com-

1 modify during seasonal operations, or in handling,
2 slaughtering, or dressing poultry or livestock: *Provided*,
3 That in any industry to which both clauses (i) and (ii)
4 apply, such period shall not exceed ten workweeks in the
5 aggregate in any calendar year,
6 and if such employee receives compensation for employ-
7 ment in excess of twelve hours in any workday, or for em-
8 ployment in excess of fifty-six hours in any workweek, as the
9 case may be, at a rate not less than one and one-half times
10 the regular rate at which he is employed. In the case of any
11 employee employed in an industry to which both (i) and
12 (ii) of clause (3) apply, the provisions of subsection (a)
13 shall not apply during a period or periods of not more than
14 ten workweeks in the aggregate in any calendar year, which
15 shall be in addition to the period or periods provided with
16 respect to such employee in clause (3).”

17 (c) Subsection (c) of section 7 of such Act is amended
18 by striking out everything therein after the semicolon and
19 inserting in lieu of the semicolon a period.

20 (d) Paragraph (5) of subsection (d) of section 7 of
21 such Act is amended by striking out “forty in a workweek”
22 and inserting in lieu thereof the following: “in excess of the
23 maximum workweek applicable to such employee under
24 subsection (a)”.

25 (e) Paragraph (7) of subsection (d) of section 7 of

1 such Act is amended by striking out “forty hours” and in-
2 serting in lieu thereof the following: “the maximum work-
3 week applicable to such employee under subsection (a)”.

4 (f) Subsection (e) of section 7 of such Act is amended
5 (1) by striking out “forty hours” and inserting in lieu
6 thereof “the maximum workweek applicable to such em-
7 ployee under subsection (a)”, (2) by striking out “section
8 6(a)” and inserting in lieu thereof “subsection (a) or (b)
9 of section 6 (whichever may be applicable)”, and (3) by
10 striking out “forty in any” and inserting in lieu thereof
11 “such maximum”.

12 (g) Subsection (f) of section 7 of such Act is amended
13 by striking out “forty hours” both times it appears therein
14 and inserting in lieu thereof the following: “the maximum
15 workweek applicable to such employee under such subsec-
16 tion”.

17 WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

18 SEC. 6. Subsection (a) of section 8 of such Act is
19 amended by inserting after the word “industries” where it
20 appears in the first sentence the words “or enterprise”; and
21 by inserting after the words “production of goods for com-
22 merce” where they appear in the second sentence the follow-
23 ing: “or in any enterprise engaged in commerce or in the
24 production of goods for commerce”.

CHILD LABOR PROVISIONS

SEC. 7. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: “or in any enterprise engaged in commerce or in the production of goods for commerce.”

EXEMPTIONS

SEC. 8. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

“(a) The provisions of sections 6 and 7 shall not apply with respect to—

“(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act) ; or

“(2) any employee employed by any retail or service establishment (except an establishment, other than a hotel, motel, or restaurant, in an enterprise described in section 3 (s) (1) or an establishment described in section 3 (s) (5)), more than 50 per centum of which establishment’s annual dollar volume of sales of goods or services is made within the State in which the estab-

1 lishment is located. A “retail or service establishment”
2 shall mean an establishment 75 per centum of whose
3 annual dollar volume of sales of goods or services (or
4 of both) is not for resale and is recognized as retail sales
5 or services in the particular industry; or

6 “(3) any employee employed by any establishment
7 (except an establishment in an enterprise described in
8 section 3 (s) (2)) engaged in laundering, cleaning, or
9 repairing clothing or fabrics, more than 50 per centum
10 of which establishment’s annual dollar volume of sales
11 of such services is made within the State in which the
12 establishment is located: *Provided*, That 75 per centum
13 of such establishment’s annual dollar volume of sales of
14 such services is made to customers who are not engaged
15 in a mining, manufacturing, transportation, or communi-
16 cations business: *Provided further*, That this exemption
17 shall not apply to any employee of any such establish-
18 ment which has an annual dollar volume of sales of such
19 services of \$250,000 or more and which is engaged in
20 substantial competition in the same metropolitan area
21 with an establishment less than 50 per centum of whose
22 annual dollar volume of sales of such services is made
23 within the State in which it is located; or

24 “(4) any employee employed by an establishment

1 which qualifies as an exempt retail establishment under
2 clause (2) of this subsection and is recognized as a re-
3 tail establishment in the particular industry notwith-
4 standing that such establishment makes or processes at
5 the retail establishment the goods that it sells: *Provided*,
6 That more than 85 per centum of such establishment's
7 annual dollar volume of sales of goods so made or proc-
8 essed is made within the State in which the establish-
9 ment is located; or

10 “(5) any employee employed in the catching, tak-
11 ing, propagating, harvesting, cultivating, or farming
12 of any kind of fish, shellfish, crustacea, sponges, sea-
13 weeds, or other aquatic forms of animal and vegetable
14 life, or in the first processing, canning or packing such
15 marine products at sea as an incident to, or in conjunc-
16 tion with, such fishing operations, including the going to
17 and returning from work and loading and unloading
18 when performed by any such employee; or

19 “(6) any employee employed in agriculture or in
20 connection with the operation or maintenance of ditches,
21 canals, reservoirs, or waterways, not owned or operated
22 for profit or operated on a share-crop basis, and which
23 are used exclusively for supply and storing of water for
24 agricultural purposes; or

1 “(7) any employee to the extent that such em-
2 ployee is exempted by regulations or orders of the Sec-
3 retary issued under section 14; or

4 “(8) any employee employed in connection with
5 the publication of any weekly, semiweekly, or daily
6 newspaper with a circulation of less than four thousand
7 the major part of which circulation is within the county
8 where printed and published or counties contiguous
9 thereto; or

10 “(9) any employee employed in a motion picture
11 theater; or

12 “(10) any individual employed within the area of
13 production (as defined by the Secretary), engaged in
14 handling, packing, storing, ginning, compressing, pas-
15 teurizing, drying, preparing in their raw or natural
16 state, or canning of agricultural or horticultural com-
17 modities for market, or in making cheese or butter or
18 other dairy products; or

19 “(11) any switchboard operator employed by an
20 independently owned public telephone exchange which
21 has not more than seven hundred and fifty stations; or

22 “(12) any employee of an employer engaged in
23 the business of operating taxicabs; or

24 “(13) any employee or proprietor in a retail or

1 service establishment which qualifies as an exempt re-
2 tail or service establishment under clause (2) of this
3 subsection with respect to whom the provisions of sec-
4 tions 6 and 7 would not otherwise apply, engaged in
5 handling telegraphic messages for the public under an
6 agency or contract arrangement with a telegraph com-
7 pany where the telegraph message revenue of such
8 agency does not exceed \$500 a month; or

9 “(14) any employee employed as a seaman on a
10 vessel other than an American vessel; or

11 “(15) any employee employed in planting or tend-
12 ing trees, cruising, surveying, or felling timber, or in
13 preparing or transporting logs or other forestry products
14 to the mill, processing plant, railroad, or other trans-
15 portation terminal, if the number of employees employed
16 by his employer in such forestry or lumbering opera-
17 tions does not exceed twelve.

18 “(b) The provisions of section 7 shall not apply with
19 respect to—

20 “(1) any employee with respect to whom the In-
21 terstate Commerce Commission has power to establish
22 qualifications and maximum hours of service pursuant
23 to the provisions of section 204 of the Motor Carrier
24 Act, 1935; or

1 “(2) any employee of an employer subject to the
2 provisions of part I of the Interstate Commerce Act;
3 or

4 “(3) any employee of a carrier by air subject to
5 the provisions of title II of the Railway Labor Act;
6 or

7 “(4) any employee employed in the canning, proc-
8 essing, marketing, freezing, curing, storing, packing
9 for shipment, or distributing of any kind of fish, shell-
10 fish, or other aquatic forms of animal or vegetable life,
11 or any byproduct thereof; or

12 “(5) any individual employed as an outside buyer
13 of poultry, eggs, cream, or milk, in their raw or natural
14 state; or

15 “(6) any employee employed as a seaman; or

16 “(7) any employee of a street, suburban, or inter-
17 urban electric railway, or local trolley or motorbus
18 carrier, not included in other exemptions contained in
19 this section; or

20 “(8) any employee employed as an automobile
21 salesman by a retail or service establishment engaged in
22 the business of selling automobiles or trucks; or

23 “(9) any employee of a gasoline service station.

PENALTIES AND INJUNCTION PROCEEDINGS

SEC. 9. (a) Section 16 (b) of such Act is amended by adding at the end thereof a new sentence as follows: "The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection."

(b) Section 17 of such Act is amended to read as follows:

"INJUNCTION PROCEEDINGS

"SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15 (a) (2) the restraint of any withholding of payment of minimum wages or overtime compensation

1 found by the court to be due to employees under this Act
2 (except sums which employees are barred from recovering,
3 at the time of the commencement of the action to restrain
4 the violations, by virtue of the provisions of section 6 of the
5 Portal-to-Portal Act of 1947).”

6 EFFECTIVE DATE

7 SEC. 10. The amendments made by this Act shall take
8 effect upon the expiration of one hundred and twenty days
9 after the date of its enactment, except as otherwise provided
10 and except that the authority to promulgate necessary rules,
11 regulations, or orders with regard to amendments made by
12 this Act, under the Fair Labor Standards Act of 1938 and
13 amendments thereto, including amendments made by this
14 Act, may be exercised by the Secretary on and after the date
15 of enactment of this Act.

A BILL

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

By Mr. ROOSEVELT

FEBRUARY 7, 1961

Referred to the Committee on Education and Labor

87TH CONGRESS
1ST SESSION

S. 895

IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 1961

Mr. McNAMARA (for himself, Mr. MORSE, Mr. RANDOLPH, Mr. SMITH of Massachusetts, and Mr. PELL) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

A BILL

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Fair Labor Standards
4 Amendments of 1961".

1

DEFINITIONS

2

SEC. 2. (a) Paragraph (m) of section 3 of such Act,
3 defining the term “wage”, is amended by inserting before
4 the period at the end thereof a colon and the following:
5 “*Provided*, That the cost of board, lodging, or other facilities
6 shall not be included as a part of the wage paid to any
7 employee to the extent it is excluded therefrom under the
8 terms of a bona fide collective-bargaining agreement appli-
9 cable to the particular employee: *Provided further*, That
10 the Secretary is authorized to determine the fair value of
11 such board, lodging, or other facilities for defined classes
12 of employees and in defined areas, based on average cost
13 to the employer or to groups of employers similarly situated,
14 or average value to groups of employees, or other appropri-
15 ate measures of fair value. Such evaluations, where appli-
16 cable and pertinent, shall be used in lieu of actual measure of
17 cost in determining the wage paid to any employee”.

18 (b) Section 3 of such Act is further amended by adding
19 at the end thereof the following new paragraphs:

20 “(p) ‘American vessel’ includes any vessel which is docu-
21 mented or numbered under the laws of the United States.

22 “(q) ‘Secretary’ means the Secretary of Labor.

23 “(r) ‘Enterprise’ means the related activities performed
24 (either through unified operation or common control) by any
25 person or persons for a common business purpose, and in-

1 cludes all such activities whether performed in one or more
2 establishments or by one or more corporate or other organiza-
3 tional units but shall not include the related activities per-
4 formed for such enterprise by an independent contractor:
5 *Provided, That, within the meaning of this subsection, a*
6 *locally owned and controlled retail or service establishment*
7 *shall not be deemed to be other than a separate and distinct*
8 *enterprise by reason of any arrangement, which includes,*
9 *but is not limited to, an agreement (1) that it will sell, or*
10 *sell only, certain goods specified by a particular manufacturer,*
11 *distributor, or advertiser, or (2) that it will join with other*
12 *locally owned and controlled concerns in the same industry*
13 *for the purpose of collective purchasing, or (3) that it will*
14 *have the exclusive right to sell the goods or use the brand*
15 *name of a manufacturer, distributor, or advertiser within a*
16 *specified area, or by reason of the fact that it occupies*
17 *premises leased to it by a person who also leases premises*
18 *to other retail or service establishments.*

19 “(s) ‘Enterprise engaged in commerce or in the produc-
20 tion of goods for commerce’ means any of the following in
21 the activities of which one or more employees are so engaged,
22 including employees handling, selling, or otherwise working
23 on goods that have been moved in or produced for commerce
24 by any person:

25 “(1) any such enterprise which has one or more

1 retail or service establishments if the annual gross volume
2 of sales of such enterprise is not less than \$1,000,000,
3 exclusive of excise taxes at the retail level which are sepa-
4 rately stated;

5 “(2) any such enterprise which has one or more
6 establishments engaged in laundering, cleaning, or re-
7 pairing clothing or fabrics if the annual gross volume of
8 sales of such enterprise is not less than \$1,000,000, ex-
9 clusive of excise taxes at the retail level which are sepa-
10 rately stated;

11 “(3) any such enterprise which is engaged in the
12 business of operating a street, suburban, or interurban
13 electric railway, or local trolley or motorbus carrier;

14 “(4) any establishment, not included in an enter-
15 prise described in paragraph (1), (2), or (3) of this
16 subsection, if the annual gross volume of sales of such
17 establishment is not less than \$250,000 (or \$350,000
18 in the case of an establishment engaged in the business
19 of construction or reconstruction, or both), exclusive of
20 excise taxes at the retail level which are separately
21 stated;

22 “(5) any gasoline service establishment if the
23 annual gross volume of sales of such establishment is not
24 less than \$250,000;

25 *Provided*, That an establishment shall not be considered to be

1 an enterprise engaged in commerce or in the production of
2 goods for commerce, or a part of an enterprise engaged in
3 commerce or in the production of goods for commerce, and
4 the sales of such establishment shall not be included for the
5 purpose of determining the annual gross volume of sales of
6 any enterprise for the purpose of this subsection, if the only
7 employees of such establishment are the owner thereof or
8 persons standing in the relationship of parent, spouse, or
9 child of such owner.”

10 SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND
11 THE VIRGIN ISLANDS

12 SEC. 3. Subsection (a) of section 5 of such Act is
13 amended by inserting after the words “production of goods
14 for commerce” wherever they appear, the following: “or
15 employed in any enterprise engaged in commerce or in the
16 production of goods for commerce”.

17 MINIMUM WAGES

18 SEC. 4. (a) (1) Section 6 (a) of such Act is amended
19 by inserting after the word “who” in the portion thereof pre-
20 ceding paragraph (1), the words “in any workweek”.

21 (2) Paragraph (1) of section 6 (a) of such Act is
22 amended to read as follows:

23 “(1) not less than \$1.15 an hour during the first
24 year from the effective date of the Fair Labor Standards
25 Amendments of 1961; not less than \$1.20 an hour

1 during the second year from such date; and not less
2 than \$1.25 an hour thereafter, except as otherwise pro-
3 vided in this section.”

4 (3) The first sentence of paragraph (3) of section
5 6 (a) of such Act is amended to read as follows:

6 “(3) if such employee is employed in American
7 Samoa, in lieu of the rate or rates provided by this
8 subsection or subsection (b), not less than the applica-
9 ble rate established by the Secretary of Labor in ac-
10 cordance with recommendations of a special industry
11 committee or committees which he shall appoint in the
12 same manner and pursuant to the same provisions as
13 are applicable to the special industry committees pro-
14 vided for Puerto Rico and the Virgin Islands by this
15 Act as amended from time to time.”

16 (b) Subsection (b) of section 6 of such Act is amended
17 to read as follows:

18 “(b) Every employer shall pay to each of his employees
19 who in any workweek (i) is employed in an enterprise en-
20 gaged in commerce or in the production of goods for com-
21 merce, as defined in section 3 (s) (1), (2), or (3) or in an
22 establishment described in section 3 (s) (4) or (5), and
23 who, except for the enactment of the Fair Labor Standards
24 Amendments of 1961, would not be within the purview of
25 this section, or (ii) is brought within the purview of this

1 section by the amendments made to section 13 (a) of this
2 Act by the Fair Labor Standards Amendments of 1961,
3 wages at rates—

4 “ (1) not less than \$1 an hour during the first year
5 from the effective date of such amendments; not less
6 than \$1.05 an hour during the second year from such
7 date; not less than \$1.15 an hour during the third year
8 from such date; and not less than the rate effective under
9 paragraph (1) of subsection (a) thereafter;

10 “ (2) if such employee is employed as a seaman
11 on an American vessel, wages at not less than the rate
12 which will provide to the employee, for the period cov-
13 ered by the wage payment, wages equal to compensa-
14 tion at the hourly rate prescribed by paragraph (1) of
15 this subsection for all hours during such period when
16 he was actually on duty (not including off-duty periods
17 within such period which are provided pursuant to the
18 employment agreement or periods aboard ship when
19 the employee was not on watch and was not, at the
20 direction of a superior officer, either performing other
21 work or standing by).”

22 (c) Subsection (c) of section 6 of such Act is amended
23 to read as follows:

24 “ (c) The rate or rates provided by subsections (a) and
25 (b) of this section shall be superseded in the case of any em-

1 ployee in Puerto Rico or the Virgin Islands only for so long
2 as and insofar as such employee is covered by a wage order
3 heretofore or hereafter issued by the Secretary pursuant to
4 the recommendations of a special industry committee ap-
5 pointed pursuant to section 5: *Provided*, That (1) the
6 following rates shall apply to any such employee to whom
7 the rate or rates prescribed by subsection (a) would other-
8 wise apply:

9 “(A) The rate or rates applicable under the most
10 recent wage order issued by the Secretary prior to the effec-
11 tive date of the Fair Labor Standards Amendments of 1961,
12 increased by 15 per centum, unless such rate or rates are
13 superseded by the rate or rates prescribed in a wage order
14 issued by the Secretary pursuant to the recommendations
15 of a review committee appointed under paragraph (D).
16 Such rate or rates shall become effective sixty days after
17 the effective date of the Fair Labor Standards Amendments
18 of 1961 or one year from the effective date of the most re-
19 cent wage order applicable to such employee theretofore
20 issued by the Secretary pursuant to the recommendations
21 of a special industry committee appointed under section 5,
22 whichever is later.

23 “(B) During the second year after the applicable effec-
24 tive date under paragraph (A), not less than the rate or
25 rates prescribed by paragraph (A), increased by an amount

1 equal to 5 per centum of the rate or rates applicable under
2 the most recent wage order issued by the Secretary prior
3 to the effective date of the Fair Labor Standards Amend-
4 ments of 1961, unless such rate or rates are superseded by
5 the rate or rates prescribed in a wage order issued by the
6 Secretary pursuant to the recommendations of a review
7 committee appointed under paragraph (D).

8 “(C) During the third year after the applicable effec-
9 tive date under paragraph (B), not less than the rate or rates
10 prescribed by paragraph (B), increased by 5 per centum of
11 the rate or rates applicable under the most recent wage order
12 issued by the Secretary prior to the effective date of the
13 Fair Labor Standards Amendments of 1961, unless such
14 rate or rates are superseded by the rate or rates prescribed
15 in a wage order issued by the Secretary pursuant to the
16 recommendations of a review committee appointed under
17 paragraph (D).

18 “(D) Any employer, or group of employers, employ-
19 ing a majority of the employees in an industry in Puerto
20 Rico or the Virgin Islands, may apply to the Secretary in
21 writing for the appointment of a review committee to rec-
22 ommend the minimum rate or rates to be paid such em-
23 ployees in lieu of the rate or rates provided by paragraph
24 (A), (B), or (C). Any such application with respect to

1 any rate or rates provided for under paragraph (A) shall
2 be filed within sixty days following the enactment of the
3 Fair Labor Standards Amendments of 1961 and any such
4 application with respect to any rate or rates provided for
5 under paragraph (B) or (C) shall be filed not more than
6 one hundred and twenty days and not less than sixty days
7 prior to the effective date of the applicable rate or rates under
8 paragraph (B) or (C). The Secretary shall promptly con-
9 sider such application and may appoint a review committee
10 only if he has reasonable cause to believe, on the basis of
11 financial and other information contained in the application,
12 that compliance with any applicable rate or rates prescribed
13 by paragraph (A), (B), or (C) will substantially curtail
14 employment in such industry. The Secretary's decision
15 upon any such application shall be final. Any wage order
16 issued pursuant to the recommendations of a review com-
17 mittee appointed under this paragraph shall take effect on
18 the applicable effective date provided in paragraph (A),
19 (B), or (C).

20 “(E) In the event a wage order has not been issued
21 pursuant to the recommendation of a review committee
22 prior to the applicable effective date under paragraph (A),
23 (B), or (C), the applicable percentage increase provided
24 by any such paragraph shall take effect on the effective
25 date prescribed therein, except with respect to the employ-

ees of an employer who filed an application under paragraph
(D) and who files with the Secretary an undertaking with
a surety or sureties satisfactory to the Secretary for payment
to his employees of an amount sufficient to compensate
such employees for the difference between the wages they
actually receive and the wages to which they are entitled
under this subsection. The Secretary shall be empowered
to enforce such undertaking and any sums recovered by him
shall be held in a special deposit account and shall be paid,
on order of the Secretary, directly to the employee or em-
ployees affected. Any such sum not paid to an employee
because of inability to do so within a period of three years
shall be covered into the Treasury of the United States as
miscellaneous receipts.

“(2) In the case of any such employee to whom sub-
section (b) would otherwise apply, the Secretary shall
within sixty days after the enactment of the Fair Labor
Standards Amendments of 1961 appoint a special industry
committee in accordance with section 5 to recommend the
highest minimum wage rate or rates, in accordance with the
standards prescribed by section 8, not in excess of the ap-
plicable rate provided by subsection (b), to be applicable
to such employee in lieu of the rate or rates prescribed by
subsection (b). The rate or rates recommended by the
special industry committee shall be effective with respect to

1 such employee upon the effective date of the wage order
2 issued pursuant to such recommendation but not before sixty
3 days after the effective date of the Fair Labor Standards
4 Amendments of 1961.

5 “(3) The provisions of section 5 and section 8, relating
6 to special industry committees, shall be applicable to review
7 committees appointed under this subsection. The appoint-
8 ment of a review committee shall be in addition to and not
9 in lieu of any special industry committee required to be ap-
10 pointed pursuant to the provisions of subsection (a) of sec-
11 tion 8, except that (i) no special industry committee shall
12 hold any hearing within one year after a minimum wage
13 rate or rates for such industry shall have been recommended
14 to the Secretary by a review committee to be paid in lieu
15 of the rate or rates provided for under paragraph (A) and
16 (ii) where an increase in the minimum wage rate or rates
17 provided for in paragraph (B) or (C) shall have become
18 effective for such industry without an application having been
19 filed under paragraph (D), no special industry committee
20 for such industry shall hold any hearing within one year after
21 such an increase shall have become effective. The minimum
22 wage rate or rates prescribed by this subsection shall be in
23 effect only for so long as and insofar as such minimum wage
24 rate or rates have not been superseded by a wage order fix-
25 ing a higher minimum wage rate or rates (but not in excess

1 of the applicable rate prescribed in subsection (a) or sub-
2 section (b)) hereafter issued by the Secretary pursuant to
3 the recommendation of a special industry committee.”

4 MAXIMUM HOURS

5 SEC. 5. (a) Subsection (a) of section 7 of such Act
6 is amended by designating such subsection as subsection
7 (a) (1), by inserting after the word “who” the words “in
8 any workweek”, and by striking out the period at the end
9 thereof and inserting a semicolon and the word “and” in lieu
10 thereof and adding the following new paragraph (2) :

11 “(2) No employer shall employ any of his employees
12 who in any workweek (i) is employed in an enterprise
13 engaged in commerce or in the production of goods for
14 commerce, as defined in section 3 (s) (1), (2), or (3),
15 or in an establishment described in section 3 (s) (4), and
16 who, except for the enactment of the Fair Labor Standards
17 Amendments of 1961, would not be within the purview of
18 this subsection, or (ii) is brought within the purview of this
19 subsection by the amendments made to section 13 of this Act
20 by the Fair Labor Standards Amendments of 1961—

21 “(A) for a workweek longer than forty-four hours
22 during the second year from the effective date of the
23 Fair Labor Standards Amendments of 1961,

1 “(B) for a workweek longer than forty-two hours
2 during the third year from such date,

3 “(C) for a workweek longer than forty hours after
4 the expiration of the third year from such date,

5 unless such employee receives compensation for his employ-
6 ment in excess of the hours above specified at a rate not less
7 than one and one-half times the regular rate at which he is
8 employed.”

9 (b) (1) Subsection (b) of section 7 of such Act is
10 amended by striking out “in excess of forty hours in the
11 workweek” in paragraph (2) and inserting in lieu thereof
12 the following: “in excess of the maximum workweek appli-
13 cable to such employee under subsection (a)”.

14 (2) Such subsection is further amended by striking out
15 clause (3) thereof and the portion of such subsection which
16 follows clause (3) and inserting in lieu thereof the fol-
17 lowing:

18 “(3) for a period or periods of not more than four-
19 teen workweeks in the aggregate in any calendar year

20 (i) in an industry found by the Secretary of Labor to be
21 of a seasonal nature, or (ii) in an industry engaged in
22 the first processing of, or in canning or packing perish-
23 able or seasonal fresh fruits or vegetables, or in the first
24 processing, within the area of production (as defined by
25 the Secretary), of any agricultural or horticultural com-

modity during seasonal operations, or in handling, slaughtering, or dressing poultry or livestock: *Provided*, That in any industry to which both clauses (i) and (ii) apply, such period shall not exceed ten workweeks in the aggregate in any calendar year,

and if such employee receives compensation for employment in excess of twelve hours in any workday, or for employment in excess of fifty-six hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed. In the case of any employee employed in an industry to which both (i) and (ii) of clause (3) apply, the provisions of subsection (a) shall not apply during a period or periods of not more than ten workweeks in the aggregate in any calendar year, which shall be in addition to the period or periods provided with respect to such employee in clause (3).”

(c) Subsection (c) of section 7 of such Act is amended by striking out everything therein after the semicolon and inserting in lieu of the semicolon a period.

(d) Paragraph (5) of subsection (d) of section 7 of such Act is amended by striking out “forty in a workweek” and inserting in lieu thereof the following: “in excess of the maximum workweek applicable to such employee under subsection (a)”.

(e) Paragraph (7) of subsection (d) of section 7 of

1 such Act is amended by striking out “forty hours” and in-
2 serting in lieu thereof the following: “the maximum work-
3 week applicable to such employee under subsection (a)”.

4 (f) Subsection (e) of section 7 of such Act is amended
5 (1) by striking out “forty hours” and inserting in lieu
6 thereof “the maximum workweek applicable to such em-
7 ployee under subsection (a)”, (2) by striking out “section
8 6(a)” and inserting in lieu thereof “subsection (a) or (b)
9 of section 6 (whichever may be applicable)”, and (3) by
10 striking out “forty in any” and inserting in lieu thereof
11 “such maximum”.

12 (g) Subsection (f) of section 7 of such Act is amended
13 by striking out “forty hours” both times it appears therein
14 and inserting in lieu thereof the following: “the maximum
15 workweek applicable to such employee under such subsec-
16 tion”.

17 WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

18 SEC. 6. Subsection (a) of section 8 of such Act is
19 amended by inserting after the word “industries” where it
20 appears in the first sentence the words “or enterprise”; and
21 by inserting after the words “production of goods for com-
22 merce” where they appear in the second sentence the follow-
23 ing: “or in any enterprise engaged in commerce or in the
24 production of goods for commerce”.

CHILD LABOR PROVISIONS

SEC. 7. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "or in any enterprise engaged in commerce or in the production of goods for commerce."

EXEMPTIONS

SEC. 8. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

"(a) The provisions of sections 6 and 7 shall not apply with respect to—

"(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act) ; or

"(2) any employee employed by any retail or service establishment (except an establishment, other than a hotel, motel, or restaurant, in an enterprise described in section 3 (s) (1) or an establishment described in section 3 (s) (5)), more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the estab-

1 lishment is located. A “retail or service establishment”
2 shall mean an establishment 75 per centum of whose
3 annual dollar volume of sales of goods or services (or
4 of both) is not for resale and is recognized as retail sales
5 or services in the particular industry; or

6 “(3) any employee employed by any establishment
7 (except an establishment in an enterprise described in
8 section 3 (s) (2)) engaged in laundering, cleaning, or
9 repairing clothing or fabrics, more than 50 per centum
10 of which establishment’s annual dollar volume of sales
11 of such services is made within the State in which the
12 establishment is located: *Provided*, That 75 per centum
13 of such establishment’s annual dollar volume of sales of
14 such services is made to customers who are not engaged
15 in a mining, manufacturing, transportation, or communi-
16 cations business: *Provided further*, That this exemption
17 shall not apply to any employee of any such establish-
18 ment which has an annual dollar volume of sales of such
19 services of \$250,000 or more and which is engaged in
20 substantial competition in the same metropolitan area
21 with an establishment less than 50 per centum of whose
22 annual dollar volume of sales of such services is made
23 within the State in which it is located; or

24 “(4) any employee employed by an establishment

1 which qualifies as an exempt retail establishment under
2 clause (2) of this subsection and is recognized as a re-
3 tail establishment in the particular industry notwith-
4 standing that such establishment makes or processes at
5 the retail establishment the goods that it sells: *Provided*,
6 That more than 85 per centum of such establishment's
7 annual dollar volume of sales of goods so made or proc-
8 essed is made within the State in which the establish-
9 ment is located; or

10 “(5) any employee employed in the catching, tak-
11 ing, propagating, harvesting, cultivating, or farming
12 of any kind of fish, shellfish, crustacea, sponges, sea-
13 weeds, or other aquatic forms of animal and vegetable
14 life, or in the first processing, canning or packing such
15 marine products at sea as an incident to, or in conjunc-
16 tion with, such fishing operations, including the going to
17 and returning from work and loading and unloading
18 when performed by any such employee; or

19 “(6) any employee employed in agriculture or in
20 connection with the operation or maintenance of ditches,
21 canals, reservoirs, or waterways, not owned or operated
22 for profit or operated on a share-crop basis, and which
23 are used exclusively for supply and storing of water for
24 agricultural purposes; or

1 “(7) any employee to the extent that such em-
2 ployee is exempted by regulations or orders of the Sec-
3 retary issued under section 14; or

4 “(8) any employee employed in connection with
5 the publication of any weekly, semiweekly, or daily
6 newspaper with a circulation of less than four thousand
7 the major part of which circulation is within the county
8 where printed and published or counties contiguous
9 thereto; or

10 “(9) any employee employed in a motion picture
11 theater; or

12 “(10) any individual employed within the area of
13 production (as defined by the Secretary), engaged in
14 handling, packing, storing, ginning, compressing, pas-
15 teurizing, drying, preparing in their raw or natural
16 state, or canning of agricultural or horticultural com-
17 modities for market, or in making cheese or butter or
18 other dairy products; or

19 “(11) any switchboard operator employed by an
20 independently owned public telephone exchange which
21 has not more than seven hundred and fifty stations; or

22 “(12) any employee of an employer engaged in
23 the business of operating taxicabs; or

24 “(13) any employee or proprietor in a retail or

1 service establishment which qualifies as an exempt re-
2 tail or service establishment under clause (2) of this
3 subsection with respect to whom the provisions of sec-
4 tions 6 and 7 would not otherwise apply, engaged in
5 handling telegraphic messages for the public under an
6 agency or contract arrangement with a telegraph com-
7 pany where the telegraph message revenue of such
8 agency does not exceed \$500 a month; or

9 “(14) any employee employed as a seaman on a
10 vessel other than an American vessel; or

11 “(15) any employee employed in planting or tend-
12 ing trees, cruising, surveying, or felling timber, or in
13 preparing or transporting logs or other forestry products
14 to the mill, processing plant, railroad, or other trans-
15 portation terminal, if the number of employees employed
16 by his employer in such forestry or lumbering opera-
17 tions does not exceed twelve.

18 “(b) The provisions of section 7 shall not apply with
19 respect to—

20 “(1) any employee with respect to whom the In-
21 terstate Commerce Commission has power to establish
22 qualifications and maximum hours of service pursuant
23 to the provisions of section 204 of the Motor Carrier
24 Act, 1935; or

1 “(2) any employee of an employer subject to the
2 provisions of part I of the Interstate Commerce Act;

3 or

4 “(3) any employee of a carrier by air subject to
5 the provisions of title II of the Railway Labor Act;

6 or

7 “(4) any employee employed in the canning, proc-
8 essing, marketing, freezing, curing, storing, packing
9 for shipment, or distributing of any kind of fish, shell-
10 fish, or other aquatic forms of animal or vegetable life,
11 or any byproduct thereof; or

12 “(5) any individual employed as an outside buyer
13 of poultry, eggs, cream, or milk, in their raw or natural
14 state; or

15 “(6) any employee employed as a seaman; or

16 “(7) any employee of a street, suburban, or inter-
17 urban electric railway, or local trolley or motorbus
18 carrier, not included in other exemptions contained in
19 this section; or

20 “(8) any employee employed as an automobile
21 salesman by a retail or service establishment engaged in
22 the business of selling automobiles or trucks; or

23 “(9) any employee of a gasoline service station.

PENALTIES AND INJUNCTION PROCEEDINGS

SEC. 9. (a) Section 16 (b) of such Act is amended by adding at the end thereof a new sentence as follows: "The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection."

(b) Section 17 of such Act is amended to read as follows:

"INJUNCTION PROCEEDINGS

"SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15 (a) (2) the restraint of any withholding of payment of minimum wages or overtime compensation

1 found by the court to be due to employees under this Act
2 (except sums which employees are barred from recovering,
3 at the time of the commencement of the action to restrain
4 the violations, by virtue of the provisions of section 6 of the
5 Portal-to-Portal Act of 1947).”

6

EFFECTIVE DATE

7 SEC. 10. The amendments made by this Act shall take
8 effect upon the expiration of one hundred and twenty days
9 after the date of its enactment, except as otherwise provided
10 and except that the authority to promulgate necessary rules,
11 regulations, or orders with regard to amendments made by
12 this Act, under the Fair Labor Standards Act of 1938 and
13 amendments thereto, including amendments made by this
14 Act, may be exercised by the Secretary on and after the date
15 of enactment of this Act.

A BILL

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

By Mr. McNAMARA, Mr. MORSE, Mr. RANDOLPH,
Mr. SMITH of Massachusetts, and Mr. PELL

FEBRUARY 9, 1961
Read twice and referred to the Committee on Labor
and Public Welfare

Digest of CONGRESSIONAL PROCEEDINGS

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

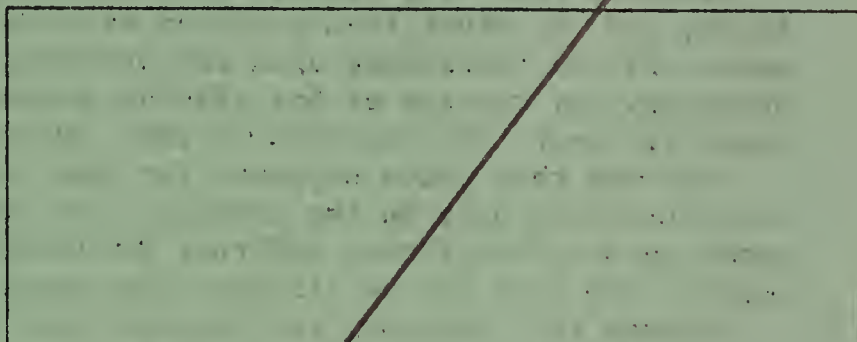
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

CONTENTS

Issued March 1, 1961

For actions of February 23, 1961
87th-1st, No. 35

For Index, see page 10.



HIGHLIGHTS: House subcommittee approved minimum wage and reorganization bills. Sen. Fulbright urged expansion of small watershed program. Both Houses received President's message on highways program. Sen. Hruska introduced and discussed wool bill. Sen. Williams, N. J., (with others) introduced and discussed farm labor bills.

HOUSE

1. ROADS. Both Houses received from the President a message recommending various changes in the Federal pay-as-you-go highway program; to House Ways and Means Committee and Senate Finance Committee (H. Doc. 96). pp. 2663-6, 2589
2. LABOR STANDARDS. A subcommittee of the Education and Labor Committee ordered reported to the full Committee H. R. 3935, amended, to amend the Fair Labor Standards Act and increase the minimum wage to \$1.25. p. D104
3. REORGANIZATION. A subcommittee of the Government Operations Committee ordered reported to the full Committee S. 153, amended, to amend the Reorganization Act. p. D104
4. UNEMPLOYMENT COMPENSATION. The Rules Committee reported a resolution for consideration of H. R. 4806, to provide for a temporary program of extended unemployment compensation. p. 2727
5. SOIL CONSERVATION. Rep. Marshall commended the ACP Program on its 25th anniversary and inserted the statement of Robert M. Koch on this subject. pp. 2691-2

6. FEED GRAINS. As reported by the Agriculture Committee, H. R. 4510, to provide a special program for feed grains for 1961, provides as follows:

Provides that the Secretary shall establish the 1961 support price of corn at some level above 65 percent of parity.

Provides that the 1961 support level of oats, rye, barley, and grain sorghums will be related to the support price for corn pursuant to the provisions of section 105(b) of the Agricultural Act of 1949, in which the bill makes no change.

Provides that eligibility for price supports on corn, grain sorghums, soybeans, and any other feed grain or oilseed crops which the Secretary may designate, will be contingent upon the producer retiring such percentage as the Secretary may require of his 1959-60 average plantings of corn and grain sorghums (if any) into the special 1961 conservation program.

Provides that price supports for corn and grain sorghums for 1961 will be made available only on the average (for 1959-60) production of the harvested acres on eligible farms, and that producers may exceed this figure without penalty but will not be eligible for price support on the excess.

Directs the Secretary to formulate and carry out a special conservation program in 1961 for corn and grain sorghums and authorizes cash payments of not more than \$500 million for such program.

Authorizes cash payments (or an equivalent amount in kind) at a rate of the support price times 50 percent of the average yield per acre (based on 1959-60 production) for retirement of 20 percent of corn and grain sorghum acreage (or 20 acres, whichever is greater) into the conservation program authorized by this bill.

Permits the producer to elect to grow on the retired acreage (in lieu of all payment) any crop designated by the Secretary which is not in surplus, not eligible for price support, and not produced principally as livestock feed.

Provides that among the conditions under which the land will be placed in the special conservation program that appropriate measures are taken to keep the land free from insects, weeds, and rodents and that there is an equivalent net increase on the farm in land devoted to soil conserving crops or practices (based on 1959-60).

Provides that in addition to the 20-percent reduction in corn and grain sorghum acreage, producers may, at their option, place up to an additional 20 percent of such acreage into the special conservation program under similar terms and conditions, except that payment for the additional 20 percent will be in kind, rather than in cash, with such payment-in-kind limited to a rate of not more than 60 percent of the average yield of the retired acreage for the years 1959 and 1960.

Provides that payment in kind will be made by issuing to eligible farmers negotiable certificates redeemable in feed grains by the Commodity Credit Corporation.

Permits CCC to sell a quantity of corn and grain sorghums during the 1961 marketing year sufficient to keep the price of those commodities from rising to a level where it would encourage farmers not to cooperate and to engage in unlimited planting.

7. BUDGETING. Rep. Pelly spoke in favor of his H. Res. 115, to prohibit "back-door financing," and stated that the House leadership is opposed to the measure. pp. 2701-3

8. REPORTS. Received the annual report of GAO. p. 2726

9. COMMITTEE EXPENSES. Agreed to various resolutions providing for expenses of committees, including H. Res. 94 for the Agriculture Committee and H. Res. 76 for the Post Office and Civil Service Committee. pp. 2666-81

Digest of CONGRESSIONAL PROCEEDINGS

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

CONTENTS

Issued March 14, 1961
For actions of March 13, 1961
87th-1st, No. 44

Budgeting.....	19
Depressed areas.....	1,32
Education.....	7,37
Electrification.....	4
Farm labor.....	2
Farm machinery.....	29
Farm production.....	20
Feed grains.....	10,24
Fisheries.....	6
Food additives.....	12,17
Foreign currencies.....	14
Forest receipts.....	15
Forestry.....	13,28
Item veto.....	19
Labor standards.....	11,35
Legislative program.....	17
Meat imports.....	16
Minerals.....	18
Minimum wage.....	11

Natural resources....	21,33
Peace Corps.....	3,23
Personnel.....	36
Pork.....	25
Recreation.....	5
Research.....	25,28
Sec. 32 funds.....	6
Seed.....	31
Soil conservation.....	26
Sugar.....	9
Surplus commodities.....	6
Surplus property.....	34
Taxation.....	15
Tool bank.....	29
Transportation.....	27
Water resources.....	3,21
Wheat.....	30
Wool imports.....	16

HIGHLIGHTS: Senate debated depressed areas bill. House committee reported minimum wage bill.

SENATE

1. DEPRESSED AREAS. Continued debate on S. 1, the depressed areas bill. pp. 3549-5, 3551-2, 3557-8
2. FARM LABOR. Agreed to as reported S. Res. 86, to authorize the Labor and Public Welfare Committee to investigate matters pertaining to migratory labor. pp. 3548-9
3. PEACE CORPS. Sen. Muskie commended the President's action establishing a Peace Corps of young persons to assist underdeveloped nations. pp. 3550-1
4. ELECTRIFICATION. Sen. Mansfield inserted a guest editorial and an editorial response in a Columbia Falls, Mont., newspaper presenting pros and cons of "the controversy over whether a private or public hydroelectric power development brings the greatest benefit to a local economy." p. 3544
5. RECREATION. Sen. Miller was appointed to be a member of the Outdoor Recreation Resources Review Commission. p. 3546
6. SURPLUS COMMODITIES. Sen. Gruening inserted a table prepared by the Bureau of Commercial Fisheries, Department of the Interior, showing the calculated

apportionment of Sec. 32 funds to the States as called for in S. 1230, to provide for an increased proportion of Sec. 32 funds to be allocated to the States for the rehabilitation and development of fishery resources. pp. 3542-3

7. EDUCATION. Sen. Humphrey discussed and inserted a summary of S. 1021, the administration's bill for Federal aid to education, including aid to schools in Federally impacted areas. pp. 3553-6
8. WATER RESOURCES. Sen. Carlson inserted a Kans. Engineering Society resolution urging greater development of water resources. p. 3541

HOUSE

9. SUGAR. The Agriculture Committee was granted permission until midnight Mar. 13 to report H. R. 5463, to extend the Sugar Act. p. 3559
10. FEED GRAINS. Conferees were appointed on H. R. 4510, to provide a special program for feed grains for 1961 (p. 3559). Senate conferees have already been appointed.
11. LABOR STANDARDS. The Education and Labor Committee reported with amendment H. R. 3935, to amend the Fair Labor Standards Act and increase the minimum wage gradually to \$1.25 an hour (H. Rept. 75). p. 3593
12. FOOD ADDITIVES. The Rules Committee reported a resolution for consideration of H. R. 3980, to amend the transitional provisions of the act of September 6, 1958, "To protect the public health by amending the Federal Food, Drug, and Cosmetic Act to prohibit the use in food of additives which have not been adequately tested to establish their safety." p. 3593
13. FORESTRY. Rep. Landrum urged "additional money so that the U. S. Forest Service and the Fish and Wildlife Service can move forward expeditiously in establishing wider opportunities to enjoy the pleasures of our national forests," and inserted a newspaper editorial, "For the Best Use of Nation's Forests." p. 3561
14. FOREIGN CURRENCIES. Received the report of the Ways and Means Committee on the expenditure of foreign currencies in connection with foreign travel by members of the committee. p. 3592
15. FOREST RECEIPTS; TAXATION. Received an Idaho Legislature resolution favoring enactment of legislation to provide that 25 percent of forest receipts be distributed to the counties in lieu of taxes for public schools and roads. p. 3594
16. MEAT AND WOOL IMPORTS. Received an Idaho Legislature resolution urging greater restrictions on the importation of meat and meat products, hides, wool, woolens and other related products. p. 3594
17. LEGISLATIVE PROGRAM. Rep. McCormack announced that the food additives bill will be considered today, Tues. p. 3560

ITEMS IN APPENDIX

18. MINERALS. Extension of remarks of Rep. Ichord stating that "southern Missouri is experiencing a mineral exploration and development boon which promises to

FAIR LABOR STANDARDS AMENDMENTS OF 1961

MARCH 13, 1961.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POWELL, from the Committee on Education and Labor, submitted the following

R E P O R T

[To accompany H.R. 3935]

The Committee on Education and Labor to whom was referred the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employces of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all of the introduced bill after the enacting clause and inserts a new text which is shown in the reported bill in *italic type*.

PART I. INTRODUCTORY STATEMENT

The Fair Labor Standards Act was enacted in 1938. The basic purpose of the act was contained in section 2, in its finding and declaration of policy:

(a) The Congress hereby finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing com-

merce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce.

(b) It is hereby declared to be the policy of this Act, through the exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power.

The bill seeks to accomplish this purpose by increasing the minimum wage for those employees presently covered by the act to \$1.15 per hour for the first 2 years after the effective date and to \$1.25 thereafter, and by extending the benefits of the law to 4,311,000 workers employed in large retail and service enterprises and by other employers engaged in commerce or in the production of goods for commerce, as more clearly set forth in part V.

PART II. SUBCOMMITTEE HEARINGS

The Special Subcommittee on Labor began public hearings on H.R. 3935 on February 17 and concluded on February 24, hearing the Honorable Arthur J. Goldberg, Secretary of Labor, and the Honorable Luther H. Hodges, Secretary of Commerce, as well as other witnesses from labor, industry, and consumers. The subcommittee also invited interested groups and parties to file statements and the subcommittee received in excess of 100 such statements.

In its executive deliberations, the subcommittee also considered the testimony received from some 146 witnesses during approximately 3 months of hearings in 1960 which were held by the Subcommittee on Labor Standards. The subcommittee noted in this regard that there was basic similarity between the provisions of the bill, H.R. 4488, under consideration last year and the bill, H.R. 3935.

The subcommittee concluded its considerations in executive session on February 28 and referred the bill to the full committee.

The committee concluded its consideration on March 9 and ordered that the bill, H.R. 3935, with an amendment, be reported favorably to the House.

PART III. EXTENT OF APPLICATION OF THE PRESENT ACT

The Fair Labor Standards Act of 1938 states its objectives to correct and "as rapidly as practicable" eliminate labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers, without substantially curtailing employment or earning power.

With reference to the objectives of the act, the Supreme Court, speaking through Mr. Justice Burton, has observed:

* * * In this act, the primary purpose of Congress was not to regulate interstate commerce as such. It was to eliminate, as rapidly as practicable, substandard labor conditions throughout the Nation. It sought to raise living standards without substantially curtailing employment or earning power. * * *

The act declared its purpose in bold and sweeping terms. Breadth of coverage was vital to its mission. Its scope was stated in terms of substantial universality. * * * (*Powell v. United States Cartridge Co.*, 339 U.S. 497).

In contrast with the objectives of the act, however, its present coverage is much more limited in scope.

Of the total of approximately 45 million wage and salary workers (excluding Government employees and executive, administrative, and professional employees) in the United States, only about 24 million are protected by the minimum wage provisions of the act.

A superficial review of present coverage shows that almost all wage and salary employees in manufacturing and mining groups are protected by the law. It is similarly evident, however, that little or no protection thus far has been extended to workers in retail trade, laundering and cleaning enterprises, and transit systems, among others.

This has resulted from the application of the present act, which is restricted to those particular employees who are "engaged in commerce or in the production of goods for commerce" as those terms are broadly defined in section 3 of the act, provided they do not come within one of the exemptions in the act.

In keeping with these broad statutory definitions of the coverage phrases used, the courts have repeatedly expressed and adhered to the principle that the coverage phrases should receive a liberal interpretation, consonant with the definitions, with the purpose of the act, and with its character as remedial and humanitarian legislation.

This broad scope given the basic coverage phrases in the act, however, has not resulted in applying the act in other areas which Congress could have regulated within the broad purpose of the act but did not.

It should be noted here that whereas section 2(a) of the act finds "that the existence in industries engaged in commerce or in the production of goods for commerce" of the prescribed labor conditions has the bad effects on the commerce there enumerated, and section 2(b) declares the policy "to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries," the coverage of the act extends only to those individual employees who can be proved to be personally engaged in interstate commerce or the production of goods therefor.

The committee also notes that while the relation between the production of goods, before any movement is begun, and their subsequent movement in interstate commerce, has been recognized under existing law as an appropriate basis for jurisdiction, like consideration has not been given by existing law to the relation between the movement of such goods, and employment on the goods in the State of destination.

The committee believes, therefore, that there exist substantial gaps in the minimum wage-hour protection of the act in large enterprises of various kinds and in other areas which, because of their size and importance to our national economy, should be brought within the coverage of the act.

PART IV. SUMMARY OF MAJOR PROVISIONS

A. MINIMUM WAGE

For workers to whom a minimum wage of \$1 an hour now applies, the rate would be increased to: \$1.15 during the first 2 years; \$1.25 thereafter.

For workers newly brought under the act the minimum hourly rate would be: \$1 during the first year; \$1.05 during the second year; \$1.15 during the third year; \$1.25 thereafter.

B. MAXIMUM HOURS

For workers newly brought under the overtime provisions, compensation at a rate not less than one and one-half times the regular rate of pay would be required for workweeks in excess of: (Unlimited during the first year); 44 hours during the second year; 42 hours during the third year; 40 hours thereafter.

C. COVERAGE

Coverage is extended, subject to specified exemptions, to the employees in the following categories of enterprises engaged in commerce or in the production of goods for commerce:

(1) Any enterprise which has one or more retail or service establishments if the annual volume of sales of the enterprise is not less than \$1 million (exclusive of excise taxes) (included here is coverage for gasoline service stations);

(2) Any enterprise which has one or more establishments engaged in laundering cleaning, or clothes repairing if the annual volume of sales of the enterprise is not less than \$1 million (exclusive of excise taxes);

(3) Any enterprise engaged in a local transit business if annual gross is not less than \$1 million (exclusive of excise taxes);

(4) Any establishment which has employees engaged in commerce or production of goods for commerce, excluding categories in 1, 2, 3, or 5, if the annual volume of sales of the establishment is not less than \$1 million;

(5) Any enterprise engaged in the business of construction or reconstruction, if annual gross is not less than \$250,000.

D. EXEMPTIONS

(1) The principal effect of the changes in the retail and service exemptions is to exclude from minimum wage and overtime coverage the following employees:

(a) Employees of retail and service establishments in enterprises grossing less than \$1 million dollars annually;

(b) Employees of a retail or service establishment which is part of a \$1 million enterprise which has not more than 15 such establishments, if the individual establishment grosses less than \$250,000 a year (except in the case of a retail gasoline establishment where such station would be exempt if it grossed less than \$1 million per year).

(2) Minimum wage and overtime exemptions also would be continued for, among others:

- (a) Employees of motion picture theaters;
- (b) Employees of hotels, motels, restaurants, caterers, and hospitals;
- (c) Employees in forestry and logging operations where the number of employees does not exceed 12;
- (d) Employees in amusement or recreational establishments that operate on a seasonal basis.

(3) Special provisions:

(a) Employees engaged in on-shore fish processing would be covered for minimum wage purposes only, not overtime;

(b) The minimum wage and overtime exemption for switchboard operators of exchanges with no more than 750 stations is replaced with an exemption for operators of an independently owned company which has no more than 750 stations;

(c) An overtime exemption is also provided for seamen on American vessels, although covered for minimum wage purposes;

(d) Employees of local transit companies are covered for minimum wages only;

(e) An overtime exemption is also provided for employees, including salesmen, garage and service personnel, of establishments primarily engaged in selling automobiles, trucks, or farm implements (even where the \$1 million figure is met), except for office employees;

(f) An overtime exemption is also allowed in retail-service establishments for any employee whose regular rate of pay is in excess of $1\frac{1}{2}$ times the minimum hourly rate applicable, and where more than half his compensation for a representative period comes from commissions on goods or services;

(g) An overtime exemption is also provided for any employee of a gasoline service station even though the enterprise meets the \$1 million test;

(h) An overtime exemption is also provided for announcers, news editors, and chief engineers of radio or television stations where located in a city or town of 50,000 population or less, except where such city is part of a standard metropolitan area with a population in excess of 100,000;

(i) An overtime exemption is also provided for delivery employees of certain independent local establishments engaged in the bulk retail distribution of petroleum products if the establishment's gross volume is less than \$1 million per year;

(j) Overtime exemptions also are set out for any employee employed as a driver or helper making local deliveries, pursuant to a bona fide collective bargaining agreement, and which provides compensation on the basis of trip rates, or other delivery payment plan;

(k) The 14-week seasonal industry exemption under which overtime payment is not required except for work in excess of 12 hours a day or 56 hours a week would continue. Would also provide a 14-workweek exemption (with same hours of work limitations as referred to above) for the first processing, etc., of fresh fruits or vegetables and the first processing in the area of production of any agricultural or horticultural commodity during

seasonal operations. If any industry qualifies for both exemptions it would be eligible for an aggregate of 24 weeks in any calendar year, of which not more than 12 weeks may be of unlimited hours;

(l) The bill would allow, also, employment of full-time students at less than minimum rates outside school hours in retail-service establishments, where the employment is not of a type ordinarily given to a full-time employee.

E. STUDY OF AGRICULTURAL EXEMPTIONS

The Secretary of Labor is directed to study the system of exemptions for the handling and processing of agricultural products under sections 7(c), 13(a)(10), and 7(b)(3), and submit next January a special report containing the results of such study, together with recommendations to simplify and remove any inequities.

F. INVESTIGATION OF FOREIGN COMPETITION

The Secretary is also directed to investigate in any industry under this act the problem of foreign competition, if he has reasonable cause to believe that it is resulting in increased unemployment. A report shall be made to the President and Congress of any such findings.

G. LIMITATION ON REPORTS REQUIREMENTS

The Secretary shall not require any other written reports by an employer, if such employer has filed with the Secretary a written assurance that he is complying with the provisions of the act, unless the Secretary has cause to believe to the contrary.

H. WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

There would be increases in existing wage orders in these areas as follows:

(1) 15 percent within 60 days after the effective date of the amendments or 1 year from the effective date of the most recent wage order, whichever is later;

(2) 10 percent 2 years after the 15-percent rate goes into effect.

(Different rates in 1 or 2 could apply if they are recommended by review committees set up by the Secretary.)

The minimum wage rates applicable to employees of these areas who would be newly covered by the act would be established by wage orders recommended by special industry committees appointed by the Secretary within 60 days after the enactment of the amendments.

I. INJUNCTION PROCEEDINGS

The courts are authorized in injunction proceedings to order the payment of minimum wages or overtime compensation found by the court to be due employees.

PART V. COMMENTS ON MAJOR PROVISIONS

A. CHANGES IN COVERAGE AND EXEMPTIONS

Introduction

The committee bill would extend the coverage of the Fair Labor Standards Act to approximately 4.3 million additional workers. This would be accomplished without departing from the act's present basis of coverage: engagement in "commerce" or in the "production of goods for commerce." Employees individually engaged in such activities, unless specifically exempt, would continue to enjoy the act's benefits. In addition, the bill would extend minimum wage protection for the first time to employees of certain large enterprises engaged in commerce or in the production of goods for commerce. These newly covered enterprises, employment in which will be discussed later in more detail, are divided into five specified categories in which one or more employees are so engaged, including employees who handle, sell, or otherwise work on goods that have been moved in or produced for commerce by any person. In general, if an enterprise comes within one of these five categories, all of its employees are covered regardless of their duties. However, there are express exclusions under which specified employees and employees of specified establishments in these enterprises would be exempt from the act's minimum wage and overtime provisions, and still others would be exempt from the overtime provisions only. These are discussed under (1) and (2) below.

As heretofore mentioned, the bill retains the act's present basis of coverage. Amendments to the Fair Labor Standards Act approved by this committee during the 86th Congress (H.R. 12677, H. Rept. 1933) would have extended the act's coverage to employees of certain enterprises engaged in activities "affecting commerce." The committee believes the approach of the present bill in extending the act's protection is preferable, since it will continue to apply the familiar "commerce" and "production for commerce" concepts of coverage. Thus, there would remain available for use in administering and enforcing these provisions the large body of administrative and judicial interpretations that has evolved since the act became law nearly 23 years ago.

The "enterprise" concept as a key to new coverage is by no means a novel one. This approach was adopted in proposed amendments to the act reported by the Committee on Education and Labor in 1949 (H.R. 3190, H. Rept. 267, pp. 13, 17, 18). At that time the proposal included no definition of the term. In the present committee bill it has been carefully defined and delimited.

The bill's approach is to treat as separate enterprises those businesses which are unrelated to each other. For example, if a single company owns several retail apparel stores and is also engaged in the lumbering business, the sales of the lumbering business would not be included in the annual dollar volume in determining whether the \$1 million test under section 3(s)(1) has been met. The employees of the lumbering business would not be included in the "enterprise" even if the \$1 million test were met since they are not engaged in the "related activities" of the retail stores.

Within the meaning of this term, activities are "related" when they are the same or similar, such as those of the individual retail or service stores in a chain. They are also "related" when they are auxiliary and service activities such as central office and warehousing activities and bookkeeping, auditing, purchasing, advertising, and other services.

Further, in order for "related activities" to be part of an enterprise they must be performed for a "common business purpose." Eleemosynary, religious, or educational and similar activities of organizations which are not operated for profit are not included in the term "enterprise" as used in this bill. Such activities performed by nonprofit organizations are not activities performed for a common business purpose.

(1) Retail and retail service employees

(a) *New coverage.*—The committee bill would bring within the act's coverage approximately 2,721,000 employees of retail selling and servicing businesses. These workers are employed in enterprises which have an annual gross volume of sales of \$1 million or more (exclusive of excise taxes at the retail level which are separately stated). About 15,000 enterprises with 100,000 establishments meet the coverage tests provided by the new section 3(s)(1) of the act. According to Bureau of the Census reports, in 1958 there were 1.8 million retail establishments. It is apparent that the bill's extension of coverage in the retail industry is limited to a relatively small portion of the Nation's total number of retail establishments.

There has been an intimate relationship between the development of retail trade and the growth of the economy as a whole. The structure of the retail industry has undergone major modifications as the economy has developed into a highly specialized and integrated urban economy. While there remain a large number of small retail stores which are local in the traditional sense of the term, retailing today is no longer essentially local in nature. It has become a vital and indeed indispensable part of the interstate stream of commerce through which flows the huge volume of consumer goods produced, shipped, and distributed to meet the individual and family demands of our Nation's population. The efficiency with which the country's retail enterprises perform their function of getting these goods to consumers directly affects the vitality and growth of those segments of American industry which produce, handle, and transport through the arteries of interstate commerce from every corner of the land the commodities which supply our citizens in all the 50 States.

Just as the general store has long since disappeared as a symbol of retailing, the corner grocery store is quickly giving way to the supermarket. When the Fair Labor Standards Act was adopted in 1938, supermarkets accounted for less than a fifth of the total food retail sales; at present more than half of the dollar volume of food is sold by supermarkets. Employment figures also reveal the changed nature of retailing. Today more than half of the employees in food stores and over two-fifths of the employees in apparel and accessory stores are in enterprises with \$1 million or more in annual receipts.

The large mercantile establishments and national systems of chain-stores which this bill would make subject to the Federal wage-hour law bear little resemblance to the small retail businesses the original

sponsors of the act sought to exclude. Their claim to be regarded as local retail merchants rests solely on the fact that they distribute and sell goods at retail, although they commonly buy at wholesale and operate in many States throughout the Nation.

The bill carefully avoids extending the act's coverage to so-called "mom and pop" stores in which the only employees are the owner, or persons standing in the relationship of parent, spouse, or child of the owner. The proposed new section 3(s) of the act which defines "enterprise engaged in commerce or in the production of goods for commerce" contains a proviso specifically excluding such businesses from that term.

The bill also contains provisions which should insure that a small local independent business, not in itself large enough to come within the new coverage, will not become subject to the act by being considered a part of a large enterprise with which it has arm's-length dealings. The definition of "enterprise" makes it clear that a local retail or service establishment which is under independent ownership and control shall not be considered other than a separate enterprise because of a franchise, or group purchasing, or group advertising arrangement with other establishments, or because it occupies premises leased to it by a person who also leases premises similarly to other establishments.

The committee is of the opinion that these provisions in the bill, together with the exemptions retained, as explained in paragraph (b) below, are in accord with the intent of the original sponsors of the law to exclude the small local retail merchants such as the corner grocer, neighborhood drugstore, barbershop, beauty parlor, and the like.

(b) *Exemptions applicable to retail and service establishments.*—At the present time the Fair Labor Standards Act exempts from its minimum wage and overtime provisions retail or service establishments more than 50 percent of whose annual dollar volume of sales is made within the State in which the establishment is located. A "retail or service establishment" is defined in section 13(a)(2) as "an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry." Related provisions in section 13(a) (4) and (13) prescribe additional conditions for exemption of employees in retail or service establishments making or processing goods they sell and operating contract telegraph agencies.

In order to make the new million dollar enterprise coverage effective for the 2,721,000 retail sales and service employees included in the bill, it was necessary for the committee to make adjustments in these exemptions. The present coverage and exemption language of the act excludes from protection of the minimum wage and overtime provisions all but about 250,000 of the 7.5 million employees in the retail trade. The employees who do have this protection are employed principally in mail-order houses and in central offices and warehouses of chainstores.

Under the committee bill the exemptions in the present act for retail and service establishments would no longer apply to such establishments in enterprises having annual gross sales of \$1 million or more, except in those cases where the bill specifically provides for exemption.

In enterprises whose gross annual sales are less than \$1 million, the present exemptions would continue in effect.

By specific provision in the bill the present exemptions for retail and service establishments would continue in effect for hotels, motels, restaurants, and hospitals, even if such establishments are in enterprises having more than \$1 million in annual sales. Section 13 (a) (2), which makes the minimum wage and overtime exemptions of the act inapplicable to service establishments in an enterprise meeting the new dollar test of coverage in section 3(s)(1), excepts "hospitals." This exception was designed to continue to exclude from coverage those proprietary hospitals which would, but for the exception, have been covered by the provisions of section 3(s)(1). Nonprofit hospitals were already excluded by virtue of the definition of "enterprise," which does not include eleemosynary, religious, or educational organizations not operated for profit. Clause 2 of section 13(a) also is intended to continue the exemption for independently owned and operated restaurants in industrial plants, office buildings, Government installations, hospitals, or colleges, such as were involved in *McComb v. Factory Stores* (81 F. Supp. 403 (1948)).

However, the exemptions for hotels, motels, and restaurants would not extend to employees of such establishments engaged in laundering, cleaning, or repairing clothing or fabrics where such services are not performed exclusively for the employing establishment.

Under the committee bill, also, a retail or service enterprise grossing \$1 million or more annually and having not more than 15 retail or service establishments in the enterprise would have an exemption from the minimum wage and overtime provisions for any such individual establishment which has less than \$250,000 in annual dollar volume of sales, exclusive of retail taxes, except that in the case of retail gasoline service establishments the exemption is provided if the establishment has less than \$1 million in annual sales. (There is also a complete overtime exemption for gasoline service stations, as explained below.)

Exemptions are also provided, without regard to annual sales volume of the enterprise, for employees employed by motion picture theaters and for employees of establishments primarily engaged in preparation and offering of food for human consumption, who are employed in connection with food and beverage service such as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs. A similar exemption is provided for employees of amusement and recreational establishments operating on a seasonal basis. These establishments are typically those operated by concessionaires at amusement parks and beaches and are in operation for 6 months or less a year. All these are complete exemptions from both the minimum wage and the overtime provisions.

The bill also provides that in the case of bona fide executive and administrative employees of retail or service establishments, the exemption provided by section 13(a)(1) shall not be so limited as to exclude an otherwise qualified employee from the exemption because of the number of hours in a workweek he devotes to nonexecutive and nonadministrative activities so long as the number of hours devoted to such nonexempt activities is less than 40 percent of his hours worked in the workweek.

In addition, special provisions are added by the bill to exempt certain employees of retail and service establishments from the overtime requirements of the act.

The bill adds a new section 7(h) to the act which would relieve retail or service establishments from paying overtime compensation to commission employees under certain conditions. These conditions are that the employee's regular rate of pay is not less than 1½ times the minimum hourly rate applicable to him under section 6 of the act, and that he receives more than half his compensation from commissions on goods or services. Whether more than half his compensation is derived from commissions will be determined, under the proposed provision, by a representative period, not less than 1 month.

Other special provisions added by the bill to section 13(b) of the act would exempt from the overtime requirements any employee of a gasoline service station, and also any employee other than an office employee who is employed by a retail or service establishment primarily engaged in the business of selling automobiles, trucks, or farm implements. These overtime exemptions are applicable irrespective of the annual dollar volume of the establishment or enterprise or the number of other such establishments in the same enterprise.

In addition to the above adjustments in exemptions, the bill would eliminate the exemption in section 13(a)(1) for employees employed in a "local retailing capacity." This is necessary to make effective the extension of protection to sales personnel of the retail or service establishments who would be covered under the proposed new section 3(s)(1). It would also result in extending minimum wage and overtime protection to about 10,000 employees of manufacturing, wholesale trade, and other nonretail establishments.

The bill amends section 14 of the act to allow full-time students to be employed in retail stores at rates below the general statutory minimum. The Secretary, to the extent necessary to prevent curtailment of their opportunities for employment, is authorized to issue regulations or orders providing for the employment of these students at such rates as he shall prescribe.

In order to qualify under this provision, the student must (1) be working in a retail or service establishment outside of school hours, (2) be a full-time student, and (3) not be employed in the type of employment ordinarily given to a full-time employee.

The purpose of this provision is to provide employment opportunities for students who desire to work part time outside of their school hours without displacement of adult workers.

(2) *Employees of businesses laundering, cleaning, and repairing clothing or fabrics*

Section 3(s)(2) which would be added to the act by the bill would bring under the act employees in enterprises engaged in laundering, cleaning, or repairing clothing or fabrics which have one or more employees engaged in commerce or in the production of goods for commerce and gross annual sales of \$1 million or more (exclusive of excise taxes at the retail level). Of a total of 465,000 nonsupervisory workers in the industry, the bill would bring under the act about 134,000 employees employed by 1,300 establishments of 90 enterprises. The committee believes that this is a moderate, yet essential step in providing a measure of protection for laundry workers.

The bill also makes four changes in section 13(a)(3) of the act, which now provides a minimum wage and overtime exemption for employees of establishments engaged in laundering, cleaning, or repairing clothing or fabrics if the establishment's annual dollar volume of sales of such services is made (1) more than 50 percent within the State in which the establishment is located, and (2) more than 75 percent to customers not engaged in a mining, manufacturing, transportation, or communications business.

First, the bill removes from this exemption those establishments which are in an enterprise having an annual gross volume of sales of \$1 million or more.

Second, the bill would eliminate a source of competitive inequities between covered and exempt businesses by including "commercial" work in the category of sales which, if amounting to more than 25 percent of annual dollar volume, would remove the exemption for an establishment.

Third, it would eliminate other competitive inequities by excluding from this exemption, as well as the exemption in section 13(a)(2), any employee of a hotel, motel, or restaurant who is engaged in laundering, cleaning, or repairing clothing or fabrics where such services are not performed exclusively for the hotel, motel, or restaurant.

Fourth, the bill will remove from the exemption employees of establishments which have annual sales of between \$250,000 and \$1 million and which are in "substantial competition in the same metropolitan area" with an establishment that derives less than 50 percent of its annual dollar volume from sales made within the State.

(3) Interurban and metropolitan transit enterprises

Sections 3(s)(3) would bring under the act those enterprises engaged in commerce or in the production of goods for commerce which are "engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier" if the annual dollar volume of sales of the enterprise exceeds \$1 million, exclusive of excise taxes.

The bill, while deleting the exemption provided in section 13(a)(9) of the present act for employees of such businesses, would provide, in a new section 13(b)(7) of the act, an exemption from the overtime requirements. These changes in the act will provide minimum wage protection for an additional 93,000 employees and will, with the changes applicable to seamen, provide substantially uniform application of the act to all segments of the Nation's transportation network.

(4) Employees of establishments having fragmented coverage, in enterprises not specially dealt with by the bill

In the new section 3(s)(4) which the bill proposes to add to the act, coverage would be provided for all employees of any establishment, not elsewhere referred to in section 3(s), which now has some employees who are and others who are not individually engaged in commerce or in the production of goods for commerce, if the establishment is in an enterprise, not referred to in any other paragraph of section 3(s), which has an annual gross volume of sales of not less than \$1 million.

The purpose of this provision is to eliminate fragmentation of coverage in the establishments of these large enterprises and prevent contin-

uance of a situation in which some of the employees in such an establishment have the protection of the act while others who work side by side with them do not. This provision would extend, to employees and employers in large enterprises where present coverage provisions apply, the same uniformity of coverage that is provided by the bill for large enterprises in which the employees are excluded from present coverage. It is consistent with the approach to coverage provided for retail and service, laundering and cleaning, transit, and construction enterprises.

This section would provide minimum wage and overtime protection under the act for approximately 100,000 additional employees in such enterprises as wholesale trade, finance, insurance, real estate, transportation, communications, and public utilities and business, accounting, and similar services.

(5) *Construction and reconstruction*

The new section 3(s)(5) of the act proposed by the committee bill would extend coverage to all employees of an enterprise engaged in the business of construction or reconstruction or both, which has one or more employees engaged in commerce or in the production of goods for commerce and an annual gross volume from its business of not less than \$350,000. It is estimated that this provision will afford minimum wage and overtime protection under the act to approximately 1 million additional employees.

As previously noted in the discussion of section 3(s)(4), under the present law employees working in the same enterprise may be treated differently so that while one employee is covered, another—working side by side—is not. The committee strongly believes that this provision, together with section 3(s)(4), will greatly ease the burden on employers, employees, and the courts, who have been compelled to determine coverage under the current provisions of the act on an employee-by-employee basis. It will provide the same concept of coverage—enterprises engaged in commerce or in the production of goods for commerce—for construction businesses as is provided in other categories of new coverage for other businesses.

The committee believes that difficulty could arise in applying the concepts of “establishment” and “sales,” as contained in the bill as introduced, to the construction industry, which performs its work under contracts and has employees of its contractors at many different job sites. The committee has deliberately refrained from using these terms in section 3(s)(5). Under the bill it is clear that if a construction contractor is engaged in construction activities at a number of construction sites, all of these activities will be considered as being performed for the enterprise, and all of the employees will come under the act if the enterprise has an annual volume of business of \$350,000 or more.

(6) *Seamen*

The present act in section 13(a)(14) provides an exemption from its minimum wage and overtime provisions for all seamen. Under the bill all seamen will continue to be exempt from the overtime provisions. However, seamen on vessels documented or numbered under the laws of the United States will be covered by the minimum wage requirements.

Of the estimated 100,000 seamen on American vessels who will be brought under the minimum wage provisions by the bill, about 50,000 are employed on deep-sea vessels and the remainder are employed on inland waterways and on harbor craft.

Because of the unique working conditions of seamen, a special section dealing with calculation of their wages is included in the bill. This special provision, in a new section 6(b)(2) of the act, allows employers to calculate wages for purposes of the act on the basis of periods other than a workweek, in accordance with custom in the industry, as long as the wages equal the employee's applicable minimum hourly wage under the act. This section also provides that in calculating the hours worked by a seaman for the purpose of the act, only the hours during which a seaman is actually on duty need be counted. Off-duty hours provided under the employment agreement or periods aboard ship when the employee is not on watch and not performing other work or standing by, at the direction of a superior officer, need not be counted as hours worked for purposes of the act.

(7) Fishermen and employees handling and processing seafood

The bill would modify the minimum wage and overtime exemption in section 13(a)(5) of the act for employees engaged in fishing and in specified activities on aquatic products. The activities now enumerated in this section fall into two general groups—(1) those “offshore” activities which have to do with the procurement of seafood and other forms of aquatic life and which depend to a considerable degree on natural forces; (2) “onshore” activities which in general have to do with the movement of perishable aquatic products to a nonperishable state or to points of consumption.

The bill would amend the provisions of section 13(a)(5) to remove from this exemption those so-called “onshore” activities and leave the exemption applicable to “offshore” activities connected with the procurement of the aquatic products, including first processing, canning or packing at sea performed as an incident to fishing operations, as well as employment in loading and unloading such products for shipment when performed by any employee engaged in these procurement operations.

An estimated 33,000 persons who are employed in the activities removed from the section 13(a)(5) exemption will have minimum wage protection but will continue to be exempt from the act's overtime requirements under an amended section 13(b)(4). The bill will thus have the effect of placing fish processing and fish canning on the same basis under the act. There is no logical reason for treating them differently and their inclusion within the act's protection is desirable and consistent with its objectives.

(8) Switchboard operators in small public telephone exchanges

The present minimum wage and overtime exemption in section 13(a)(11) of the act applicable to switchboard operators in public telephone exchanges which have not more than 750 stations is amended by the bill. This section will now be applicable only to switchboard operators employed by any “independently owned public telephone company which has not more than 750 stations.” Under the bill, switchboard operators are exempt if they are employed by an independently owned telephone company which has a combined total of

fewer than 750 stations in the one or more exchanges that it may own. The exemption will not apply to small exchanges which are part of larger companies even if the individual exchanges have less than 750 stations.

This amendment will extend the protection of the act to an estimated 30,000 switchboard operators.

B. MINIMUM WAGE FOR PRESENTLY COVERED WORKERS

The minimum wage for the 23.9 million workers who are now protected by the \$1 rate is increased by the bill to \$1.25 an hour in 2 steps. The rate will be \$1.15 beginning 4 months after the date of enactment, and will go to \$1.25 2 years later. In recommending this moderate schedule of increases, the committee has considered the current economic situation and such factors as: (1) Trends in the relationship of the minimum wage level to average hourly earnings in manufacturing; (2) changes in the cost of living and in productivity since the effective date of the 1956 increase to \$1 an hour; (3) the annual income required to maintain a minimum standard of living; and (4) the impact of the proposed minimum rates as compared with the impact of the 1956 increase.

(1) Relation of the minimum wage to the level of earnings in manufacturing

The first minimum wage goal established by the Fair Labor Standards Act, 40 cents an hour, was equal to about two-thirds of average hourly earnings of production workers in manufacturing in June 1938, when the original act was enacted. This goal was to be reached as rapidly as economically feasible through industry committee action within a period of 7 years from the effective date of the act. The 40-cent rate was required by statute after the end of this period. On the effective date of the original act, October 1938, a rate of 25 cents was established and the statute provided for a 30-cent rate a year later, in October 1939.

The increase in the minimum to 75 cents, enacted in October 1949, and the succeeding increase to \$1, enacted in August 1955, each set the minimum rate at somewhat more than half of the average hourly factory earnings.

Increases in earnings since 1955 for the average factory worker means that the minimum rate is now only 43 percent of the average hourly earning figure, \$2.32. An increase in the rate to \$1.25 will do no more than restore the relationship to average earnings of the 75-cent rate and the \$1 rate, when they were enacted.

(2) Changes in the cost of living and in productivity

During the 5 years since the \$1 minimum wage became effective the earnings position of most workers has improved markedly. In many industries, including both manufacturing and nonmanufacturing groups, average earnings increased by 25 percent or more. The increases in the earnings of most factory workers have been large enough to both offset the increase in the cost of living and to provide the average workers with an equitable share of the benefits of increased productivity.

Between March 1956 and January 1960, the Consumer Price Index rose by 11 percent. Real product per man-hour in the private sector

of the economy rose by 13 percent during the period 1956 through 1960. A minimum wage of \$1.25 an hour, if made effective immediately, would provide low-paid workers the same real wage as did the \$1 minimum in 1956, plus a proportionate share of the greater output of goods and services made possible through increased productivity. To provide the original purchasing power of the \$1 minimum would require a rate of \$1.11.

If \$1.11 is multiplied by 1.13 to allow for the gains in productivity, a rate of \$1.254 is obtained. Since it is expected that there will be a further increase in productivity by the time the \$1.25 rate becomes effective, the schedule of rates provided by the bill will fall somewhat short of the objective of correcting the \$1 rate for changes in prices and in productivity.

(3) *Annual income required to maintain a minimum standard of living.*

The objective of the act is as rapidly as practicable to eliminate, in industries engaged in commerce or in the production of goods for commerce, "labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency and general well-being of workers." An indication of the level at which the minimum wage would have to be set to reach this objective is provided by estimates of the cost of budgets which have been developed by the Bureau of Labor Statistics and by State agencies.

The Bureau of Labor Statistics has developed a list of goods and services intended to reflect a "modest but adequate" level of living for a family consisting of an employed husband, a wife not employed outside the home, and two children. This list was designed "to estimate the dollar amount required to maintain such a family at a level of adequate living, according to prevailing standards of what is needed for health, efficiency and nurture of children * * * ." Estimates of the annual cost of this budget were developed by the Bureau of Labor Statistics for each of 20 large cities as of autumn 1959. The cost varies from a high of \$6,567 in Chicago to a low of \$5,370 in Houston (table 1).

TABLE 1.—*Annual costs of the city worker's family budget,¹ 20 large cities, autumn 1959*

City and suburbs:	Total budget ¹	City and suburbs—Continued	Total budget ¹
Atlanta.....	\$5,642	Minneapolis.....	\$6,181
Baltimore.....	5,718	New York.....	5,970
Boston.....	6,317	Philadelphia.....	5,898
Chicago.....	6,567	Pittsburgh.....	6,199
Cincinnati.....	6,100	Portland, Oreg.....	6,222
Cleveland.....	6,199	St. Louis.....	6,266
Detroit.....	6,072	San Francisco.....	6,304
Houston.....	5,370	Scranton.....	5,693
Kansas City.....	5,964	Seattle.....	6,562
Los Angeles.....	6,285	Washington, D.C.....	6,147

¹ For a family of 4, including an employed husband of 38, wife, an 8-year old girl and a 13-year old boy.
Source: Bureau of Labor Statistics.

Obviously, the proposed \$1.25 rate falls far short of the amount required to cover this budget. If an employee works 2,000 hours a year, he would have to be paid \$2.69 an hour in order to obtain the amount of income required to meet the cost of this budget in Houston.

A number of States have developed "minimum adequate" budgets

for a self-supporting single woman. Estimates of the current cost of these budgets vary from a high of \$3,587 for New Jersey to a low of \$2,181 for Massachusetts. The variations from State to State, as shown in table 2, reflect for the most part differences in the nature of the budgets rather than differences in costs of living (table 2).

TABLE 2.—*State estimates of annual earnings necessary to support a single woman without dependents*

State	Date surveyed	Annual budget	Changes in cost of living between survey date and December 1960 ¹ (percent)	Annual cost, December 1960 ²
Arizona.....	February 1954.....	\$2,313	+10.9	³ \$2,565
California.....	June 1955.....	2,290	+11.5	2,553
Colorado.....	September 1955.....	2,176	+11.0	2,415
Connecticut.....	March 1949.....	1,867	+25.1	2,336
District of Columbia.....	September 1959.....	2,364	+1.8	2,407
Kentucky.....	February 1949.....	1,992	+25.5	2,500
Maine.....	December 1950.....	2,236	+19.3	2,668
Massachusetts.....	February 1954.....	1,967	+10.9	2,181
Minnesota.....	October 1960.....	2,495	+2	2,500
New Jersey.....	September 1958.....	3,479	+3.1	3,587
New York City.....	September 1956.....	2,664	+8.9	2,901
Pennsylvania.....	May 1957.....	2,799	+6.6	2,984
Utah.....	October 1950.....	2,230	+21.4	2,707
Washington.....	May 1952.....	2,664	+12.8	3,005
Average budget.....				2,665

¹ Increase in National Consumer Price Index.

² Estimated by applying rise in National Consumer Price Index to amount of budget on survey date.

³ Median budget.

NOTE.—The assumption made by the budgets (for example, whether the single woman lives at home with a family or lives in a boardinghouse) vary by State and account for much of the differences in budget totals.

Source: Supplementary material submitted by Stanley H. Ruttenberg of the AFL-CIO, on Feb. 17, 1961.

A rate of \$1.15 would yield an annual income, to an employee who works 2,000 hours, of \$2,300 a figure lower than the cost of a minimum adequate budget as estimated by all but one of the States for which budgets are available. A rate of \$1.25 would yield an income of only \$2,500, less than the estimated cost of all but four of the State budgets.

(4) *Impact of the proposed minimum rates compared with that of the 1956 increase to \$1 an hour.*

In a report submitted to the committee, the Department of Labor concluded that the proposed \$1.15 rate would have a smaller direct wage impact than the \$1 rate in 1956, and that even an immediate increase to \$1.25 would require an increase in factory wage costs no greater than did the \$1 rate. Following are pertinent excerpts from the Department's report.¹

When the \$1 minimum wage was enacted in August 1955, the Congress had before it estimates of the direct wage impact of a \$1 minimum rate in manufacturing. These estimates can be compared with the current direct wage impact of the minimum rates provided by the bill.

In 1955 it was estimated that of the 15,500,000 factory workers, 700,000 or 4.6 percent were paid at the minimum wage level or within 10 cents of that rate (under 85 cents).

¹ Supplement to statement in explanation of the Fair Labor Standards Amendments of 1961 (H.R. 3935), Feb. 14, 1961.

It is now estimated that of the 14,238,000 covered factory workers, 812,000 or 5.7 percent are paid \$1 an hour or within 10 cents of that figure (under \$1.10).

In 1955, it was estimated that 1,600,000 factory workers, or 10.2 percent of the total, were paid less than \$1 an hour. It is now estimated that 8.2 percent of all presently covered factory workers are paid less than \$1.15, 10.3 percent are paid less than \$1.20, and 12.7 percent are paid less than \$1.25.

In 1955 it was estimated that to increase to \$1 an hour the wages of all factory workers who were paid less than that amount would require an increase in manufacturing wage costs of 0.8 percent. As is indicated above, it is now estimated that to increase the wages of presently protected factory workers who are paid less than \$1.15 an hour to that amount would require an increase in wage costs of 0.4 percent. The proportion for \$1.20 is 0.6 percent and for \$1.25, 0.8 percent.

It appears that a minimum rate of \$1.15 an hour would have a somewhat smaller direct wage impact than did the \$1 rate in 1956. It is believed that a satisfactory adjustment to the \$1 rate was made. This conclusion is supported by the Department's 3-year program of studies of the effects of the increase in the minimum wage to \$1. These studies show that in three of the seven low-wage localities surveyed, employment did not change significantly, and in three others there were significant increases during the period of initial adjustment to the \$1 minimum wage. On the other hand, the studies also show that there were significant declines in employment in low-wage industries included in these studies. Even if one were to assume that most of these declines were attributable to the minimum wage increase, the benefits of the \$1 minimum wage far outweigh the adverse effects.

Since an increase in the minimum wage to \$1.15 would have less of an impact than the 1956 increase to \$1, there can be little question as to the ability of employers of low-paid workers to adjust now to a minimum wage of \$1.15. A rate of \$1.25 would require raising the wages of a larger proportion of factory workers than did the 1956 increase to \$1. However, the percentage increase in factory wage costs which would be required to raise to \$1.25 the earnings of workers who are paid less than that amount would be the same as the percentage increase required by the \$1 rate.

The Department concluded that—

since employers would not, under the bill [H.R. 3935], be required to raise wages to \$1.25 before 2 years, it is not expected that enactment of the bill would have any significant adverse effect on employment of workers now protected by the act.

(5) Effective date of \$1.25 rate

The bill as introduced would have provided, for workers now protected by the \$1 rate, a rate of \$1.15 beginning 4 months after the date of enactment, a rate of \$1.20 beginning 16 months after the date of enactment, and a rate of \$1.25 beginning 28 months after the date of enactment. The bill as revised by the subcommittee would have eliminated the \$1.20 step and made the \$1.25 rate effective 1 year earlier. The committee bill also provides that the intermediate \$1.20 rate be dropped, but retains the requirement of the bill as introduced: that the rate be increased to \$1.25 2 years after the effective date. The \$1.15 rate would therefore apply for a 2-year period commencing 4 months after the date of enactment.

The \$1.25 rate, even if imposed immediately, would have no greater cost impact than did the increase in the minimum from 75 cents to \$1, to which a satisfactory adjustment was made. Therefore, there should be no question as to the ability of employers to make satisfactory adjustment to the \$1.25 rate over a period of 28 months.

C. MINIMUM WAGE FOR NEWLY COVERED EMPLOYEES

The bill provides that the same minimum wage rate, \$1.25 an hour, would be established for both employees who are now protected by the \$1 rate and for workers who would be newly protected. This is appropriate, since the same minimum wage rate is required to provide each group of workers with a minimum standard of living. Both groups of workers are composed for the most part of heads of families, and both also include some workers who have no dependents. However, in view of the relatively low level of earnings of many of the newly protected workers, their employers will be allowed 3 years after the effective date in which to make the adjustment to the \$1.25 rate. During the first year the minimum rate for the newly protected workers will be set at \$1 an hour.

Of the 4,311,000 workers to whom minimum wage protection will be newly provided, 772,000 are paid less than \$1 an hour and 1,602,000 are paid less than \$1.25. These employees are distributed by industry as follows:

Industry	Under \$1	Under \$1.25
Retail trade.....	608,000	1,300,000
Miscellaneous services.....	24,000	52,000
Laundries and cleaning plants.....	57,000	91,000
Seafood processing.....	10,000	16,000
Transit systems.....	4,000	9,000
Small telephone exchanges.....	5,000	14,000
Seamen.....		10,000
Other industries.....	60,000	103,000

To increase to \$1 an hour the wages of the 608,000 employees in retail trade who are paid less than that amount will result in raising the wage costs of the newly covered enterprises by about 2 percent. Measured in these terms, the impact of the \$1 rate in retail trade will be greater than the impact which the \$1 minimum had in manufacturing in 1956. However, there are several important factors which lead the committee to believe that employers in retail trade will

be able to adjust to a \$1 rate as readily as did manufacturing employers in 1956.

In two important respects, employers in retailing are in a better position to adjust to a larger increase in wage costs than are low-paying manufacturing firms.

The ratio of labor costs to total sales is considerably less in retailing than in manufacturing. In such relatively low-wage lines of business as general merchandise stores, labor costs represent 15 percent of total sales; in apparel and accessories stores, 14 percent; and in gasoline service stations, 9 percent. In contrast, in many low-wage manufacturing industries the proportions are in excess of 25 percent.

Prior to 1956 employers in manufacturing had been required to adjust to a series of minimum wage increases. This had encouraged them to utilize their workers more effectively. In retail trade, on the other hand, in areas where the minimum wage will have its greatest impact, an abundant supply of labor at low wage rates has been available. Consequently, employers have not been pressed to make use of the full potential of their employees. It is expected that the adjustment to the minimum wage requirement will be made in large part by eliminating unproductive time and increasing efficiency of operations.

The committee is also mindful of the fact that only large enterprises of the retail and service industries—those with an annual volume of sales of \$1 million or more—will be brought under the act. These enterprises have large financial resources and are in a much better position to adjust to wage increases than are the small establishments and firms which account for most of the low-paid employees who are now protected by the act. Also, most of these large companies operate in both high- and low-wage areas, so that the impact of the minimum wage on a particular enterprise would be an average of the impact on the low-wage and the high-wage establishments.

D. INCREASES IN WAGE PAYMENTS

As is indicated above, to raise workers who are now paid less than the scheduled minimum wage rates to those rates will result in small percent increases in wage costs. Nevertheless, workers who are now paid less than these rates will receive substantial increases in wage payments. (See chart 1.)

It is estimated that 1,906,000 of the presently covered workers are paid less than \$1.15 an hour and 772,000 of the workers who will be newly covered are paid less than \$1. The earnings of these workers will be increased during the first year by a total of \$568 million. During the second year, the 1,906,000 presently covered workers will continue to receive at least \$1.15, and 942,000 of the workers who would be newly protected (those now paid less than \$1.05 an hour) will receive wage increases. The total amount of wages which will be paid to these employees on an annual basis will be \$655 million more than they are now being paid. During the third year, 3,021,000 of the presently protected workers (those now paid less than \$1.25) will be paid at least \$1.25 an hour and 1,295,000 of the newly protected workers will receive wage increases. On an annual basis, these two groups of workers combined will be paid \$1,379 million more than they now receive. During the fourth year, 1,602,000 of the newly protected workers will receive wage increases, and the total amount

CHART 1. NUMBER OF PRESENTLY COVERED AND NEWLY COVERED WORKERS WHO WOULD RECEIVE WAGE INCREASES AND ANNUAL INCREASES IN WAGES REQUIRED UNDER THE COMMITTEE BILL

1st year	2nd year	3rd year	4th year
Presently covered (\$1.15)	Newly covered (\$1.00)	Presently covered (\$1.25)	Newly covered (\$1.15)
A. Number of workers receiving wage increases (thousands)			
1,906	772	1,115	1,602
	942	1,906	307
	170		353
	772		170
			772
B. Annual increases in wages required (millions)			
\$336	\$232	\$836	\$834
	\$319	\$500	\$291
	\$87		\$224
	\$232		\$87
			\$232

NOTE: Estimates for each year shown are based on 1960 employment data. The number of employees whose wages would be increased each year are the number who now receive less than the minimum rates which would be applicable for that year. "Annual increases in wages" are those increases required to raise workers now earning less than the applicable minimum rates to such rates.

of wage payments to the 4,623,000 workers who are now paid less than \$1.25 will be \$1,670 million more than they are now being paid.

E. EFFECTS ON PRICES AND FOREIGN TRADE

In his message to the Congress proposing a program to restore momentum to the American economy, dated February 2, 1961, President Kennedy stated that an increase in the minimum wage and an expansion of coverage—

can actually increase productivity and hold down unit costs, with no adverse effects on our competition in world markets and our balance of payments. More than four-fifths of those commodities affected by either export or import trends are produced by industries which would not be significantly affected by a moderate increase in the minimum wage. The proposed new coverage is basically in retail trade and services, which are not affected by shifts in international trade. Moreover, experience with previous minimum wage increases indicates little effect on prices. In the 4 years following the 1956 increase in the minimum wage, the index of all wholesale prices increased 6.6 percent, whereas the prices charged for commodities produced in low wage industries showed negligible change.

The committee is in agreement with this statement; nevertheless, the committee is concerned about the upward trend in imports of types of products which are produced in the United States by relatively low wage firms.

In order to provide the information necessary for evaluating the matter, the bill contains a new provision, section 4(e), which directs the Secretary of Labor to make investigations whenever he has reason to believe that in any industry under the act the competition of foreign producers has resulted or is likely to result in increased unemployment. If he finds that increased unemployment has in fact resulted or is likely to result from such competition, he will make a report of his findings to the President and to the Congress.

F. OVERTIME PROVISIONS FOR NEWLY PROTECTED WORKERS

During the first year after the effective date, when employers of the newly protected workers are making the initial adjustment to the \$1 minimum wage, payment of a premium rate for overtime hours will not be required. Thereafter, employers will be allowed 2 years in which to adjust to the act's basic 40-hour workweek. During the second year after the effective date all but a few categories of the 4,311,000 workers for whom minimum wage protection will be provided will be entitled to payment of 1½ times their regular rates of pay for hours in excess of 44 in a workweek. During the third year overtime pay will be required after 42 hours, and during the fourth and subsequent years after 40 hours.

Employers will be allowed more than 3 years in which to adjust to a 40-hour workweek because of the longer workweeks in retail trade at the present time. The Department of Labor estimates that 9 percent of the newly protected workers in retail trade work over 48 hours, that 18 percent work over 44 hours, and that 27 percent work

over 40 hours. It is expected that for the most part employers will adjust to the maximum hours requirement by reducing the length of workweeks rather than by paying overtime premiums for long workweeks. This is suggested by the extent to which the workweek in retail has already been reduced to 40 hours, and by the increase in use of part-time employment in the industry. In 1948, 14 percent of retail employees worked less than 30 hours, but by 1959 the proportion had increased to 20 percent.

The overtime provisions described above will not apply to seamen, employees processing seafood, employees of interurban and metropolitan transit systems, and the specified employees of retail and service establishments who will remain exempt from overtime requirements under provisions of the bill which have been previously discussed. Special overtime exemptions for certain delivery employees which are provided by the bill may also be applicable to some newly covered workers. These latter exemptions are discussed in part VI.

PART VI. OTHER PROVISIONS

A. MINIMUM WAGE RATES FOR EMPLOYEES IN PUERTO RICO, THE VIRGIN ISLANDS, AND AMERICAN SAMOA

The act now provides for the establishment of minimum wage rates for industries in Puerto Rico, the Virgin Islands and American Samoa by wage orders issued pursuant to recommendations of tripartite industry committees. The statute requires that each of the rates be reviewed at least once during each biennial period. It is the committee's conclusion that the minimum rates for industries employing workers in Puerto Rico should, except where substantial curtailment of employment would result, be increased by the same percentages as the minimum rate for the mainland. Industries which employ half of all covered workers in Puerto Rico are now subject to rates of \$1 an hour, a limit which is set by the statute rather than an industry committee's determination that it is the highest rate which could be set without substantial curtailment of employment. A \$1 rate has been applicable in most of these industries for 2 or more years.

Another consideration is that the Puerto Rican industries, which sell in the mainland market in competition with mainland firms, would tend to gain a competitive advantage if a minimum wage increase is imposed upon the mainland firms while the present rates for Puerto Rican industries are continued.

The bill contains provisions under which each of the rates applicable to currently covered employees in any industry in Puerto Rico or the Virgin Islands will be increased by 15 percent, the same increase as will be applicable to mainland industries, unless an appeal is made. Two years after the first increase in the wage rate for any industry has become effective, the rate will be further increased by an amount equal to 10 percent of the rate in effect at the time of enactment of the amendments, but not in excess of \$1.15 during the first 2 years after the effective date of the act, or \$1.25 thereafter. However, no rate applicable in these islands which has been in effect for less than 1 year will be increased until a full year has elapsed.

Either of the percentage increases referred to above may be superseded upon the basis of the recommendations of a review committee

appointed by the Secretary of Labor under procedures prescribed in the bill upon application by employers employing a majority of employees in an industry. The application must be accompanied by financial and other data. The bill makes provision for appointment of a review committee to recommend a rate or rates in lieu of the applicable percentage increase if, on the basis of such financial and other data, the Secretary has reasonable cause to believe that such percentage increase would substantially curtail employment in the industry. In the event a wage order is not issued pursuant to the recommendations of such review committee prior to the dates the percentage increases are scheduled to become effective, the percentage increases will take effect, except with respect to employees of an employer who (1) filed an application for the review committee and (2) provided an undertaking with sureties satisfactory to the Secretary to cover the difference between the wages his employees actually received and the wages to which they become entitled. The bill further provides that no special industry committee shall hold any hearing within 1 year after a minimum rate or rates for such industry shall have been recommended to the Secretary by a review committee.

Provision is also made for setting the initial minimum rate for employees on the islands to whom protection will be newly extended. The bill provides for appointment, within 60 days after the date of enactment, of a special industry committee to determine the rates appropriate for the newly protected workers. This rate will become effective on the effective date of the wage order issued pursuant to the industry committee's recommendation, but not before 60 days after the effective date of the amendments. Subsequently, each rate will be subject to review at least once during each biennial period.

B. DEFINITION OF WAGE

Apart from the definitions already referred to in connection with coverage, the definition of "wage" in section 3(m) of the act will be modified by giving the Secretary authority to determine the fair value of facilities furnished by the employer on the basis of average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. The bill also provides that the cost of board, lodging, or other facilities would not be included as a part of wages if excluded by a bona fide collective bargaining agreement.

C. SEASONAL INDUSTRIES AND AGRICULTURAL PROCESSING

The bill would make several adjustments in section 7(b)(3) and section 7(c) of the act to amend those provisions of the exemptions which govern the periods in which employees may be worked overtime without payment of time and one-half compensation. The committee considers these revisions appropriate in the light of changes in industry practices which have diminished the need for overtime work to preserve perishable products in peak seasons. The adjustments would reduce from 28 to 24 the number of workweeks during the calendar year in which exemptions from overtime pay are available to certain farm products processors, particularly processors, packers, and canners of perishable or seasonal fresh fruits or vegetables.

The 28 workweeks are now available to these processors by a cumulative application of the 14-workweek limited exemption provided by section 7(b)(3) and the broader 14-workweek exemption in section 7(c). Under section 7(b)(3), hours up to 12 in a day or 56 in a week may be worked without payment of time and one-half for overtime in industries found to be seasonal in nature. Pursuant to section 7(c) unlimited hours may be worked during specified periods without payment of overtime.

Since many of these processors are able to qualify for both exemptions, their employees are frequently not protected by the 40-hour workweek standard for a period of nearly 7 months in any year. In the committee's opinion, an exemption for this length of time is neither necessary at the present time from the standpoint of the employer's needs nor equitable from the standpoint of fairness to his employees.

The bill would restrict the cumulative application of overtime exemptions for these processors. This would be done by specific provisions limiting their exemption to 12 weeks of unlimited hours and 12 weeks additional during the year in which as many as 12 hours a day and 56 hours a week could be worked before payment of time and one-half for the excess hours.

For employers not entitled to cumulate the two exemptions, the bill would provide for a continuation of 14 workweeks of overtime exemption in the calendar year. However, the exemption would be subject to payment of time and one-half for overtime in excess of 12 hours a day or 56 hours a week. This would be done by retaining the present exemption for seasonal industries in section 7(b)(3) and by adding a new exemption under this section for such employers who now have section 7(c) exemptions but none under section 7(b)(3). The 14-workweek unlimited hours exemption in section 7(c) is eliminated by the bill.

The bill would make no change in the application of these two exemptions in the law except the foregoing adjustments in the periods during which overtime hours may be worked without payment of time and one-half overtime compensation. There would likewise be no change in the exemption in section 13(a)(10) of the act. Section 13(a)(10) provides a minimum wage and overtime exemption for employees employed in the area of production in the handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state or canning of agricultural or horticultural commodities for market or in the making of cheese or butter or other dairy products.

The committee bill contains a provision directing the Secretary of Labor to study the application of all of these exemptions and to report on this study with recommendations to the Congress in January 1962. The scope and basis of application of these exemptions differ substantially although the activities with which they are concerned are similar. Exemption under section 13(a)(10) depends upon the engagement, within the "area of production" as defined by the Secretary of Labor, by the particular employee in one of the operations specifically named in the section. Under section 7(c), exemption depends upon the employee's engagement in particular work in a place of employment where his employer is engaged in the named operations. In addition, in the case of first processing of any agricultural and

horticultural commodities not otherwise specifically provided for in the subsection, the place of employment must be within the "area of production" as defined by the Secretary. Under section 7(b)(3), the exemption is applicable to all employees of an establishment in any industry or branch of an industry found by the Secretary of Labor to be of a seasonal nature.

The present provisions make it difficult for employers and employees to understand their rights and obligations under the law. In the opinion of the committee the desirability and feasibility of their revision, even if only to simplify and clarify their present application, should be carefully studied. It is hoped that the recommendation of the Secretary in 1962 will provide a sound basis for making any necessary revisions.

D. CHILD LABOR

The bill amends section 12(c) of the act to provide the protection of the child labor provisions in enterprises engaged in commerce or in the production of goods for commerce. This provision, which would bar employment of oppressive child labor in any such enterprise, conforms the coverage of these provisions to the new coverage provided for such enterprises under the minimum wage.

E. EXEMPTION PROVISIONS ADDED BY THE BILL

(1) *Processing of shade-grown tobacco*

The definition of "agriculture" in section 3(f) of the present act is amended to include the processing of shade-grown tobacco for use as cigar wrapper tobacco by agricultural employees employed in the growing and harvesting of such tobacco. The processing, which must be done prior to the stemming process to come within the amended definition of "agriculture," includes, but is not limited to, drying, during, fermenting, bulking, rebulking, sorting, grading, aging, and baling.

The purpose of this amendment is to include, in the minimum wage and overtime exemption under section 13(a)(6) of the act for farming, employees who are employed in the growing and harvesting of shade-grown tobacco for those periods when they are engaged in processing such shade-grown tobacco for cigar wrapper tobacco prior to the stemming process. Such operations were assumed to be exempt prior to the case of *Mitchell v. Budd*, 350 U.S. 473 (1956), as a continuation of the agricultural process, occurring in the vicinity where the tobacco was grown.

(2) *Delivery employees engaged in bulk distribution of petroleum products*

The bill adds a new section 13(b)(11) to the act which provides an overtime exemption for employees engaged in delivering petroleum products for independently owned and controlled local petroleum bulk distribution establishments having an annual dollar volume of sales of under \$1 million. However, an establishment cannot claim the exemption for these delivery employees if more than 10 percent of its annual sales are made to customers who are engaged in the bulk distribution of petroleum products for resale or who use the products in operations, other than agriculture, in which goods are produced for commerce.

This provision is intended to exempt from the overtime provision of the Fair Labor Standards Act, delivery employees of small oil jobbers and other petroleum products distributors who are engaged in selling their products in bulk primarily to farmers and homeowners and not to other bulk dealers. The hours an oil jobber must remain in operation are often affected by climatic and seasonal factors, particularly with respect to the sale of fuel oil to farmers and homeowners during certain periods of the year.

(3) Drivers and drivers' helpers paid on a trip rate basis

The present act contains an overtime exemption, in section 13(b)(1), for drivers, drivers' helpers, loaders, and mechanics with respect to whom the Interstate Commerce Commission has power to regulate maximum hours of service. While this exemption applies to many drivers and drivers' helpers employed on a trip rate or similar basis, there are some employees engaged in such activities whose employment is not within the ICC's jurisdiction.

The bill will not change this exemption. However, it will provide, in a new section 13(b)(12), an overtime exemption applicable to an employee employed as a driver or drivers' helper on a trip rate or similar basis making local deliveries, under a collective bargaining agreement negotiated by employee representatives certified as bona fide by the National Labor Relations Board. An employee so employed will be exempt from the act's overtime provisions if the Secretary of Labor finds that the agreement establishing such basis of employment has the general purpose and effect of reducing the hours worked by the employees to, or below, the maximum workweek applicable to them under the act.

(4) Specified employees of certain broadcasting stations

The committee bill provides a new overtime exemption in section 13(b)(10) for any announcer, news editor, or chief engineer of a radio or television station if the major studio of the station is located in a city or town which has a population of less than 50,000 according to the U.S. Bureau of Census and is not part of a standard metropolitan area having a population of 100,000 or more.

F. LIMITATIONS ON REPORTS REQUIREMENTS

Section 11(c) of the present act authorizes the Secretary not only to require employers to make, keep, and preserve records of wages, hours, and other conditions and practices of employment maintained by him, but also to require employers to make such reports as the Secretary may find necessary from the records. Under an amendment made by the committee bill, an employer who has filed with the Secretary a written assurance that he is complying with the act will be relieved of the necessity of making any other written report. However, the Secretary may require a written report if he has reason to believe, on the basis of complaints or other reliable information, that an employer has violated or is violating the act.

G. ENFORCEMENT

Under the present provisions of the act, the Secretary of Labor has no authority to require the payment of minimum wages and overtime

compensation not paid in compliance with the law, except where an employee requests that an action be brought by the Secretary of Labor. This limitation has impeded the Secretary in his efforts to enforce the act since many employees who have not been paid in compliance with the act are hesitant about requesting legal action against their employers.

The bill therefore amends sections 16 and 17 of the act so as to establish a more effective method of enforcing an employee's rights by authorizing the Federal courts to order the payment of the actual amount of unpaid wages due an employee in injunctive actions brought under section 17.

Section 16(b) of the present act contains a provision allowing an employee to bring an action on his own against his employer or former employer for the amount of wages due him, plus an equal amount as liquidated damages. Very few of these suits have been brought by employees under section 16(b) of the act and of the few that have been brought most are initiated by individuals no longer in the employ of the defendant employer. Under these amendments, however, filing of a complaint by the Secretary, pursuant to the new authority given him to initiate such injunction suits without formal requests from employees, terminates the rights of individuals to later file suit for compensation and liquidated damages under 16(b). This would then relieve the courts and employers of the burden of litigating a multiplicity of suits based on the same violations of the act by an employer. Once suit is initiated by the Secretary, the courts are authorized to require payment of all minimum wages and overtime compensation found due and unpaid. They are not, however, authorized to require payment of an additional amount as liquidated damages.

In calendar year 1960, investigative activities of the Wage and Hour and Public Contracts Divisions revealed an estimated \$30 million in unpaid minimum wages and overtime compensation due nearly 200,000 employees. Of this amount, \$16 million has not been paid, and the Secretary has no authority, in the absence of an employee request, to require payment.

Since the Department of Labor has been able to make compliance investigations of only approximately 5 percent of all currently covered establishments in 1 year, the investigations undertaken must have a spreading effect. If an adequate level of compliance with the law is to be achieved, these investigations must result in continuing compliance in establishments investigated and also in furthering compliance in uninvestigated establishments.

The proposed amendment would make these investigations much more effective by providing a practical method for requiring payment of the amounts of any wages or overtime compensation which an employer has failed or refused to pay, as required by the act. Placing the probability of financial liability on those employers who are presently careless of their obligations under the act would increase the level of compliance with the statute, and would protect complying employers from the unfair wage competition of the noncomplying employers.

The provision in the bill authorizing the courts to restrain any withholding of minimum wages or overtime compensation in violation of section 15(a)(2) does not change the present authority of the courts to order reimbursement for losses incurred by an employee due

to discriminatory discharge in violation of section 15(a)(3) of the act (*Mitchell v. DeMario*, 361 U.S. 288).

H. EFFECTIVE DATE

This bill is to take effect 120 days after its date of enactment, except as otherwise provided. Since there are some provisions both under the present act and under these amendments which necessitate the issuance of rules, regulations, and orders by the Secretary of Labor in order to effectively carry out their intent, authority is given the Secretary to promulgate such rules, regulations, and orders on or after the date of enactment of this bill.

SECTION-BY-SECTION ANALYSIS

The committee struck out all of the bill after the enacting clause and inserted the text of a new bill. This committee amendment is referred to hereafter in this analysis as the bill. The bill (except for the first and last two sections) consists of a series of amendments to the Fair Labor Standards Act of 1938 (hereinafter referred to as "the act").

SECTION 1. SHORT TITLE

This section provides that the bill may be cited as the "Fair Labor Standards Amendments of 1961."

SECTION 2. DEFINITIONS

Subsection (a) of this section amends the definition of "agriculture" now contained in section 3(f) of the act. The amendment would have the effect of excluding from coverage under the act employees engaged prior to the stemming process in processing shade-grown tobacco for use as cigar wrapper tobacco, but only if the employees were employed in the growing and harvesting of such tobacco.

Subsection (b) makes two amendments to the definition of "wage" now contained in section 3(m) of the act. At present in certain cases the reasonable cost to the employer of furnishing board, lodging, or other facilities to his employees is included in computing their wage. The first amendment would make an exception to this rule to the extent such cost is excluded as a part of the wage paid an employee under the terms of a bona fide collective bargaining agreement applicable to the particular employee. The second amendment would permit the Secretary to determine the fair value of such facilities for defined classes of employees in defined areas. The Secretary's determination will be based on the average cost to the employer or to groups of employers similarly situated, or on the average value to groups of employees, or other appropriate measures of fair value. These evaluations will be used instead of actual cost where applicable and pertinent.

Subsection (c) adds several new definitions to the act. The first of these is "American vessel," which will include vessels documented or numbered under the laws of the United States.

In new subsection (r) the term "enterprise" is defined. An enterprise will be the related activities performed by any person or persons for a common business purpose. The related activities referred to

may be performed through unified operation or common control. In determining what constitutes an enterprise, it will make no difference whether the activities are performed in one or more than one establishment or by one or more than one corporate or other organizational units, but the term will not include related activities performed by an independent contractor. Under this definition a local retail or service establishment which is under independent ownership and control will not be considered part of a larger "enterprise" by reason of any arrangement, including an agreement, (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other local establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area; or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

Subsection (s) provides that an enterprise will be considered to be engaged in commerce or in the production of goods for commerce if it has one or more employees engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce, and if it falls in any one of the following five categories:

(1) An enterprise with one or more retail or service establishments and an annual gross volume of sales of \$1 million or more, exclusive of specified excise taxes.

(2) An enterprise having one or more establishments engaged in laundering, cleaning, or repairing clothing or fabrics and an annual gross volume of sales of \$1 million or more, exclusive of specified excise taxes.

(3) An enterprise which is engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier and has an annual gross volume of sales of \$1 million or more, exclusive of specified excise taxes.

(4) Any establishment in any such enterprise, except establishments and enterprises referred to in other categories, if the establishment has employees engaged in commerce or the production of goods for commerce and the enterprise has an annual gross volume of sales of \$1 million or more.

(5) An enterprise which is engaged in the business of construction or reconstruction, or both, and has an annual gross volume of business of \$350,000 or more.

This definition finishes with a proviso designed to make it clear that stores of the type generally referred to as "Mom and Pop" stores will not be covered.

SECTION 3. INVESTIGATIONS OF EFFECTS OF EMPLOYMENT ON FOREIGN COMPETITION

This section adds a new subsection to section 4 of the act under which the Secretary, whenever he has reason to believe that in any industry under this act the competition of foreign producers in the U.S. or foreign markets has resulted, or is likely to result in increased unemployment in the United States, is required to make an investiga-

tion to obtain full information with respect to the matter. If the Secretary determines that such increased unemployment has in fact, or is in fact, likely to result, from such competition, he is required to make a full report to the President and the Congress.

SECTION 4. SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

This section makes an amendment to section 5(a) of the act required by the extension of the new coverage under the act to Puerto Rico and the Virgin Islands.

SECTION 5. MINIMUM WAGES

The minimum wage at present for employees covered by the act is \$1 an hour. Under the bill, the minimum wage for these employees would be raised in two steps. During the first 2 years after the effective date it will be \$1.15 an hour and thereafter the minimum wage will be \$1.25 an hour.

The bill makes a technical amendment to the language relating to minimum wages in American Samoa to adjust this proviso to the amendments made by the bill.

Under the bill a new category of employees will be brought under the coverage of the act. These are employees who are employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s), but are not presently covered because they are not themselves engaged in commerce or the production of goods for commerce. The bill would also bring under coverage another group by reason of changes in the exemptions from coverage contained in section 13.

In prescribing the minimum wage for these newly covered employees, the amended act, in section 6(b), would provide a somewhat different series of periodic increases than in the case of employees now covered. Under this provision, during the first year after the effective date the minimum wage will be \$1 an hour; during the next year it will be \$1.05 an hour; during the next year it will be \$1.15 an hour; and thereafter it will be \$1.25 an hour.

The bill provides a special minimum wage provision applicable to seamen on American vessels who are brought under coverage by the bill. The minimum wage rate for these seamen will be the same as that provided for other newly covered employees, but in computing such wage periods longer than a workweek may be used and hours are included as hours worked only if the employee was on duty. The employee will be considered to be on duty while he is on watch or is, at the direction of a superior officer performing work or standing by, but he will not be considered to be on duty during off-duty periods provided pursuant to his employment agreement.

Subsection (c) of this section amends subsection (c) of section 6 to provide for extending coverage to employees of enterprises engaged in commerce or in the production of goods for commerce, as defined, which are located in Puerto Rico and the Virgin Islands. However, the effect of the new rates would be conditioned by the provisions of the new proviso added to subsection (c).

Paragraph (1) of the proviso relates to the taking effect of increases in minimum wages applicable to employees covered in existing law.

Under this paragraph, subject to the exceptions hereafter discussed, when increased occur in the minimum wage for mainland employees the minimum wage applicable to employees to whom the subsection applies will increase by an equal percentage. For example, if the minimum wage of an employee is fixed at 80 cents an hour, this minimum wage will initially be increased 15 percent to 92 cents an hour. The first increase will not take effect on the effective date of these amendments, but instead will take effect 1 year after the effective date of the most recent wage order applicable to the employee which was issued prior to 60 days after the effective date of the bill, but in no event before the expiration of 60 days from the effective date of the amendments. The second increase will take effect 2 years after the first increase takes effect. However, these increases may be superseded in accordance with a procedure set forth in paragraph (C). To invoke this procedure any employer, or group of employers, employing a majority of the employees employed in the industry must file an application within 60 days after the date of enactment of these amendment, or in the case of the second increase, less than 120 days and more than 60 days before the increase becomes effective, for the appointment of a review committee. The bill makes provision for appointment of such a committee if, on the basis of financial and other information contained in the application, the Secretary has reasonable cause to believe that compliance with a new rate will substantially curtail employment in the industry. The decision of the Secretary will be final. When the wage order is issued under this procedure, the new rate will become effective on the date the applicable percentage increase would have become effective.

Under paragraph (D) it is provided that where a review committee has not made its recommendations prior to the date the applicable percentage increase would otherwise become effective, such percentage increase will become effective as scheduled, except with respect to employees of an employer who filed with the Secretary an application and an undertaking, with satisfactory sureties, to compensate his employees for any difference between the wages they actually received and the wages they become entitled to receive under this subsection.

As indicated above, a somewhat different arrangement is provided in the case of employees in Puerto Rico and the Virgin Islands who will be given the benefits of the Fair Labor Standards Act of 1938 for the first time by reason of the amendments made by the bill. Under paragraph (2) of the proviso, these employees will be paid not less than the minimum wage rate or rates applicable under a wage order issued pursuant to the recommendation of a special industry committee which the Secretary will appoint to recommend the highest wage rates (not in excess of the applicable rate for newly covered employees on the mainland) which it determines, having due regard to economic and competitive conditions, complies with the standards prescribed in section 8.

Under this proviso review committees shall be appointed and carry out their duties in the same manner as special industry committees. The appointment of a review committee will be in addition to any special industry committee, but it is provided that no special industry committee shall hold any hearing within 1 year after a minimum wage rate for the industry has been recommended by a review committee

to be paid in lieu of a percentage increase which would automatically occur.

SECTION 6. MAXIMUM HOURS

This section amends section 7 of the act, relating to maximum hours, to prescribe the standard maximum workweek for employees who will be covered for the first time by this amendatory bill. However, no standard maximum workweek would be prescribed during the first year the bill is in effect. As in the case of the present maximum hours provisions, employers will be required to pay their employees employed for a workweek longer than the standard maximum workweek at a rate not less than $1\frac{1}{2}$ times the regular rate at which he is employed. The standard maximum workweek for such employees will be 44 hours for the second year after the effective date, 42 hours during the third year after such date, and thereafter it will be 40 hours.

Paragraph (2) of subsection (b) also makes an amendment to subsection (b) of section 7 which, in conjunction with the amendment made to subsection (c), makes a change in the seasonal and the first processing exemptions, so-called. Under the present law, an exemption from the overtime provisions of the act for periods of 14 workweeks in the aggregate is provided for employees employed in industries of a seasonal nature, if the employee involved receives the specified overtime pay for employment in excess of 12 hours in a workday or in excess of 56 hours in a workweek. The present law also provides an overtime exemption (in this case, an unlimited hours exemption) for employees in any place of employment where they are engaged in specified operations relating to the preparation or processing of certain fruits and vegetables, agricultural or horticultural commodities, or poultry or livestock. This is also an exemption for 14 workweeks in the aggregate. Thus, a single employee may be exempt, under these provisions, for as long as 28 work weeks in the aggregate. The amendment groups both of these amendments in one paragraph—paragraph (3) of section 7(b). It provides that if both exemptions apply the 14-week period will be limited in each instance to 12 weeks. Where one but not the other applies, 14 workweeks of exemption would be available subject to payment of overtime after 12 hours in a day or 56 hours in a workweek. In other respects it leaves the existing law unchanged.

Subsections (d) and (e) of section 6 make two changes in definition of "regular rate" which are necessitated by the inclusion of the new lengths of workweeks for newly covered employees.

Subsection (f) of section 6 makes conforming changes in section 7(e) of the present law which has special overtime provisions for employees whose duties necessitate irregular hours of work. These changes reflect the new lengths of workweeks for newly covered employees.

Subsection (g) of section 7 amends section 7(f) of existing law which contains certain modifications of the normal overtime requirements to reflect unusual situations. The amendments merely make changes to reflect the new lengths of workweeks for newly covered employees.

Subsection (h) of section 7 adds an entirely new provision to the overtime provisions of the act. Under this provision, which is applicable only in the case of employees of retail or service establishments, an employer will not be considered to have violated the applicable

overtime provisions, if the regular rate of pay of the employee concerned is more than one and a half times the minimum hourly rate applicable to him, and more than half of his compensation for a representative period represents commissions on goods or services.

SECTION 7. WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

This section makes conforming amendments to section 8 of the act required by extension of coverage to enterprises in Puerto Rico and the Virgin Islands engaged in commerce or in the production of goods for commerce, as defined.

SECTION 8. LIMITATION ON REPORTS REQUIREMENT

This section amends section 11(c) of the act to place a limitation of the Secretary's present authority to require reports. Under this amendment if an employer gives the Secretary written assurance that he is complying with the act, the Secretary is denied authority to require any other written reports from the employer unless he has reason to believe, on the basis of complaints or on the basis of other information he considers reliable, that the employer has violated or is violating the act.

SECTION 9. CHILD LABOR PROVISIONS

This section amends section 12 of the act to extend the applicability of its child labor provisions to prohibit the employment of oppressive child labor in any enterprise engaged in commerce or in the production of goods for commerce.

SECTION 10. EXEMPTIONS

In the following discussion, only those exemptions will be discussed which have been changed substantively.

This section amends subsections (a) and (b) of section 13 of existing law which deal with exemptions from the coverage of the act. Subsection (a) provides exemptions from both the minimum wage and the overtime provisions, while the exemptions provided by subsection (b) are only from the overtime provisions.

Paragraph (1) of subsection (a) has been changed to delete the present exemption for employees employed in a local retailing capacity and to make certain that employees of retail or service establishments who are in other respects employed in a bona fide executive or administrative capacity will not lose exemption because of the percentage of working time which is spent in activities not directly or closely related to the performance of executive or administrative duties, so long as less than 40 percent of the hours worked in the workweek are devoted to such activities.

Paragraph (2) of subsection (a) deals with the exemption of employees of retail and service establishments (as defined in the act) doing more than 50 percent of their business within the State. The amended exemption describes three instances in which such employees will be exempt. In the first place, employees will be exempt if their establishment is not in an enterprise described in section 3(s)(1), that is, an enterprise which has a gross annual sales less than \$1 million

(exclusive of specified excise taxes). An employee will also be exempt, even though his establishment is a part of an enterprise which meets the \$1 million test, in two instances. The first of these is where he is employed in a hotel, motel, restaurant, or hospital. The second instance is where he is employed by an establishment which has (exclusive of such taxes) less than \$250,000 in annual sales (\$1 million in the case of a retail gasoline service establishment), but only if there are 15 or less retail or service establishments in the enterprise.

The amendment of paragraph (3) of subsection (a) preserves in modified form an exemption in existing law for establishments engaged in laundering, cleaning, or repairing of clothing or fabrics. The amendment restricts the exemption to establishments which are not in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s)(2). The bill makes a change in the present provision which restricts the exemption to establishments 75 percent of whose annual sales are made to customers not engaged in a mining, manufacturing, transportation, or communications business by adding commercial business to this list. The bill excludes from this exemption and the preceding exemption an employee of a hotel, motel, or restaurant who is engaged in laundering, cleaning, or repairing clothing or fabrics where such services are not performed exclusively for that hotel, motel, or restaurant. The bill adds a further proviso to the paragraph which provides that the exemption will not apply to any employee of such an establishment which has more than \$250,000 in annual sales and is engaged in substantial competition in the same metropolitan area with an establishment 50 percent of whose annual sales is made within the State in which it is located.

Paragraph (5) of subsection (a) relates to an exemption for persons engaged in fishing and related activities. The paragraph, as amended, would exempt employees employed in catching, propagating, taking, harvesting, or cultivating fish, shellfish, and other aquatic forms of animal and vegetable life. It would also exempt first processing, canning, and packing of marine products at sea, as an incident to or in conjunction with, such fishing operations. The exemption also includes going to and returning from work and loading and unloading when performed by any such employee. On-shore processing operations previously included in this exemption would be subject to the minimum wage, but are provided with an overtime exemption in a revised section 13(b)(4).

In recognition of the extension of coverage to certain enterprises engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, the revised section removes the minimum wage exemption in present law for employees of such businesses, but retains an overtime exemption in a new section 13(b)(7).

Paragraph (9) of subsection (a) exempts any employee of a motion-picture theater.

Paragraph (11) of subsection (a) is revised by the bill. Under the existing law any switchboard operator employed in a public telephone exchange which has not more than 750 stations is exempt. Under the bill, such a switchboard operator would be exempt only if employed by an independently owned public telephone company having not more than 750 stations.

Paragraph (14) of subsection (a) is changed to exempt only seamen on vessels other than American vessels, rather than all seamen as in existing law. This would extend the minimum wage to seamen on American vessels. An overtime exemption is retained in a new section 13(b)(6).

Paragraph (16) of subsection (a) provides a new exemption for certain persons engaged in food handling. To be exempt under this paragraph the employee must be employed in an establishment which is primarily engaged in the preparation or offering of food for human consumption. In addition, in order to qualify for the exemption the employee must himself be employed in connection with the preparation and offering of food or beverages for human consumption by such services as catering, banquet, box lunch, or curb or counter service to the public, or to employees or to members or guests of members of clubs.

Paragraph (17) of subsection (a) exempts employees employed in amusement or recreational establishments which operate on a seasonal basis.

Subsection (b) of this section contains exemptions from the overtime provisions of the act.

Paragraph (4) of subsection (b) now provides an overtime exemption for canning of marine products. The bill gives this exemption also for processing, marketing, freezing, curing, storing, packing for shipment, or distributing such products. It will be noted that formerly these latter activities were included under subsection (a) for both a minimum wage and an overtime exemption.

Paragraph (6) of subsection (b) gives an overtime exemption for all seamen. Under the bill seamen on American vessels are given only minimum wage protection.

Paragraph (7) of subsection (b) gives employees of interurban and metropolitan transit systems an overtime exemption. Under existing law they are exempt from both the minimum wage and the overtime provisions.

Paragraph (8) of subsection (b) grants an overtime exemption to employees, other than office employees, of retail or service establishments primarily engaged in selling autos, trucks, or farm implements.

Paragraph (9) of subsection (b) gives an overtime exemption for employees of gasoline service stations.

Paragraph (10) of subsection (b) gives an overtime exemption for announcers, news editors, and chief engineers employed by radio or television stations in cities of 50,000 population, or less, unless the city is a part of a standard metropolitan area, as defined by the Census Bureau, which has a total population in excess of 100,000.

Paragraph (11) of subsection (b) provides an overtime exemption for employees of independently owned and controlled local establishments which are engaged in the bulk distribution of petroleum products who are employed in the delivery of such products. To qualify for the exemption the establishment must have annual sales of less than \$1 million, and must not make more than 10 percent of its sales to customers who are engaged in the bulk distribution for resale of such products or who use such products in producing goods (other than agricultural commodities) for interstate or foreign commerce.

Paragraph (11) of subsection (b) provides an overtime exemption for drivers or drivers' helpers making local deliveries who are paid on the basis of trip rates or other delivery payment plan. To be eligible for the exemption the payments must be made pursuant to a bona fide collective bargaining agreement which the Secretary finds has the purpose and effect of reducing hours worked by such employees to, or below, the applicable maximum workweek.

SECTION 11. EMPLOYMENT OF STUDENTS

Under section 14 of the present law the Secretary, to the extent necessary to prevent curtailment of employment opportunities, provides for employment of learners, apprentices, and messengers, under special certificates and subject to certain limitations at rates lower than the applicable minimum. The amendment would grant this same authority in the case of full-time students employed by retail or service establishments outside their school hours, but only if their employment is of a type not normally given to a full-time employee.

SECTION 12. PENALTIES AND INJUNCTION PROCEEDINGS

Under section 16(b), the existing act permits employees to sue to recover unpaid minimum wages and unpaid overtime compensation which is due them. The amendment would provide that this privilege would terminate when the Secretary, under section 17, brings an action to obtain such unpaid sums.

Subsection (b) of this section amends section 17 to give the U.S. courts jurisdiction, in addition to their present injunctive powers, to restrain an employer from withholding unpaid minimum wages and unpaid overtime compensation (other than sums an employee is barred from receiving by section 6 of the Portal-to-Portal Act of 1947).

SECTION 13. STUDY OF AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS

This section requires the Secretary to study the exemptions in the act relating to handling and processing of agricultural products, and to submit a special report of such study to the Congress in January 1962, together with recommendations for further legislation to simplify and remove inequities in such exemptions.

SECTION 14. EFFECTIVE DATE

The amendments made by the act will become effective 120 days after enactment, but the authority to make regulations and orders becomes effective at once.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED

AN ACT To provide for the establishment of fair labor standards in employment in and affecting interstate commerce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Labor Standards Act of 1938".

FINDING AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce.

(b) It is hereby declared to be the policy of this Act, through the exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(b) "Commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(c) "State" means any State of the United States or the District of Columbia or any Territory or possession of the United States.

(d) "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee but shall not include the United States or any State or political subdivision of a State, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(e) "Employee" includes any individual employed by an employer.

(f) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

(g) "Employ" includes or suffer or permit to work.

(h) "Industry" means a trade, business, industry, or branch thereof, or group of industries, in which individuals are gainfully employed.

(i) "Goods" means goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.

(j) "Produced" means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this Act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.

(k) "Sale" or "sell" includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(l) "Oppressive child labor" means a condition of employment under which (1) any employee under the age of sixteen years is employed by an employer (other than a parent or a person standing in place of a parent employing his own child or a child in his custody under the the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being) in any occupation, or (2) any employee between the ages of sixteen and eighteen years is employed by an employer in any occupation which the Secretary shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being; but oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary certifying that such person is above the oppressive child-labor age. The Secretary shall provide by regulation or by order that the employment of employees between the ages of fourteen and sixteen years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Secretary determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.

(m) "Wage" paid to any employee includes the reasonable cost, as determined by the Secretary, to the employer of furnishing such employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by such employer to his employees: *Provided, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: Provided further, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee.*

(n) "Resale" shall not include the sale of goods to be used in residential or farm building construction, repair, or maintenance: *Provided, That the sale is recognized as a bona fide retail sale in the industry.*

(o) Hours Worked.—In determining for the purposes of sections 6 and 7 the hours for which an employee is employed, there shall be excluded any time spent in changing clothes or washing at the beginning or end of each workday which was excluded from measured working time during the week involved by the express terms of or by custom or practice under a bona fide collective-bargaining agreement applicable to the particular employee.

(p) "American vessel" includes any vessel which is documented or numbered under the laws of the United States.

(q)¹ "Secretary" means the Secretary of Labor.

(r) "Enterprise" means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units but shall not include the related activities performed for such enterprise by an independent contractor: *Provided, That, within the meaning of this subsection, a locally owned and controlled retail or service establishment shall not be deemed to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not limited to, an agreement (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other locally owned and controlled concerns in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.*

(s) "Enterprise engaged in commerce or in the production of goods for commerce" means any of the following in the activities of which one or more employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise

¹ All functions of all other officers of the Department of Labor and functions of all agencies and employees of the Department were transferred to the Secretary of Labor by Reorganization Plan No. 6 of 1950. The text of the Fair Labor Standards Act of 1938 as set forth herein incorporates these transfers.

is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

(2) any such enterprise which has one or more establishments engaged in laundering, cleaning, or repairing clothing or fabrics if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

(3) any such enterprise which is engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier;

(4) any establishment, not included in an enterprise described in paragraph (1), (2), or (3) of this subsection, if the annual gross volume of sales of such establishment is not less than \$250,000 (or \$350,000 in the case of an establishment engaged in the business of construction or reconstruction, or both), exclusive of excise taxes at the retail level which are separately stated;

(5) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000;

Provided, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce, or a part of an enterprise engaged in commerce or in the production of goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner.

ADMINISTRATOR

SEC. 4. (a) There is hereby created in the Department of Labor a Wage and Hour Division which shall be under the direction of an Administrator, to be known as the Administrator of the Wage and Hour Division (in this Act referred to as the "Administrator"). The Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$20,000 ² a year.

(b) The Secretary may, subject to the civil-service laws, appoint such employees as he deems necessary to carry out his functions and duties under this Act and shall fix their compensation in accordance with the Classification Act of 1949, as amended. The Secretary may establish and utilize such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed. Attorneys appointed under this section may appear for and represent the Secretary in any litigation, but all such litigation shall be subject to the direction and control of the Attorney General. In the appointment, selection, classification, and promotion of officers and employees of the Secretary, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency.

(c) The principal office of the Secretary shall be in the District of Columbia, but he or his duly authorized representative may exercise any or all of his powers in any place.

² Sec. 106(a)(7) of the Federal Executive Pay Act of 1956.

(d) The Secretary shall submit annually in January a report to the Congress covering his activities for the preceding year and including such information, data, and recommendations for further legislation in connection with the matters covered by this Act as he may find advisable. Such report shall contain an evaluation and appraisal by the Secretary of the minimum wages established by this Act, together with his recommendations to the Congress. In making such evaluation and appraisal, the Secretary shall take into consideration any changes which may have occurred in the cost of living and in productivity and the level of wages in manufacturing, the ability of employers to absorb wage increases, and such other factors as he may deem pertinent.

SEC. 5. (a) The Secretary shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce *or employed in any enterprise engaged in commerce or in the production of goods for commerce*, or the Secretary may appoint separate industry committees to recommend the minimum rate or rates of wages to be paid under section 6 to employees therein engaged in commerce or in the production of goods for commerce *or employed in any enterprise engaged in commerce or in the production of goods for commerce* in particular industries. An industry committee appointed under this subsection shall be composed of residents of such island or islands where the employees with respect to whom such committee was appointed are employed and residents of the United States outside of Puerto Rico and the Virgin Islands. In determining the minimum rate or rates of wages to be paid, and in determining classifications, such industry committees shall be subject to the provisions of section 8.

(b) An industry committee shall be appointed by the Secretary without regard to any other provisions of law regarding the appointment and compensation of employees of the United States. It shall include a number of disinterested persons representing the public, one of whom the Secretary shall designate as chairman, a like number of persons representing employees in the industry, and a like number representing employers in the industry. In the appointment of the persons representing each group, the Secretary shall give due regard to the geographical regions in which the industry is carried on.

(c) Two-thirds of the members of an industry committee shall constitute a quorum, and the decision of the committee shall require a vote of not less than a majority of all its members. Members of an industry committee shall receive as compensation for their services a reasonable per diem, which the Secretary shall by rules and regulations prescribe, for each day actually spent in the work of the committee, and shall in addition be reimbursed for their necessary traveling and other expenses. The Secretary shall furnish the committee with adequate legal, stenographic, clerical, and other assistance, and shall by rules and regulations prescribe the procedure to be followed by the committee.

(d) The Secretary shall submit to an industry committee from time to time such data as he may have available on the matters referred to it, and shall cause to be brought before it in connection with such matters any witnesses whom he deems material. An industry com-

mittee may summon other witnesses or call upon the Secretary to furnish additional information to aid it in its deliberations.

MINIMUM WAGES

SEC. 6. (a) Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce wages at the following rates—

[(1) not less than \$1 an hour;]

(1) *not less than \$1.15 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1961; not less than \$1.20 an hour during the second year from such date; and not less than \$1.25 an hour thereafter, except as otherwise provided in this section.*

(2) if such employee is a homemaker in Puerto Rico or the Virgin Islands, not less than the minimum piece rate prescribed by regulation or order; or, if no such minimum piece rate is in effect, any piece rate adopted by such employer which shall yield, to the proportion or class of employees prescribed by regulation or order, not less than the applicable minimum hourly wage rate. Such minimum piece rates or employer piece rates shall be commensurate with, and shall be paid in lieu of, the minimum hourly wage rate applicable under the provisions of this section. The Secretary, or his authorized representative, shall have power to make such regulations or orders as are necessary or appropriate to carry out any of the provisions of this paragraph, including the power without limiting the generality of the foregoing, to define any operation or occupation which is performed by such homework employees in Puerto Rico or the Virgin Islands; to establish minimum piece rates for any operation or occupation so defined; to prescribe the method and procedure for ascertaining and promulgating minimum piece rates; to prescribe standards for employer piece rates, including the proportion or class of employees who shall receive not less than the minimum hourly wage rate; to define the term "homeworker"; and to prescribe the conditions under which employers, agents, contractors, and subcontractors shall cause goods to be produced by homeworkers.

(3) [if such employee is employed in American Samoa, not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are now applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act.] *if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time. Each such committee shall have the same powers and duties and shall apply the same standards with respect to the application of the*

provisions of this Act to employees employed in American Samoa as pertain to special industry committees established under section 5 with respect to employees employed in Puerto Rico or the Virgin Islands. The minimum wage rate thus established shall not exceed the rate prescribed in paragraph (1) of this subsection.

[(b) This section shall take effect upon the expiration of one hundred and twenty days from the date of enactment of this Act.]

(b) Every employer shall pay to each of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1), (2), or (3) or in an establishment described in section 3(s) (4) or (5), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at rates—

(1) not less than \$1 an hour during the first year from the effective date of such amendments; not less than \$1.05 an hour during the second year from such date; not less than \$1.15 an hour during the third year from such date; and not less than the rate effective under paragraph (1) of subsection (a) thereafter;

(2) if such employee is employed as a seaman on an American vessel, wages at not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (not including off-duty periods within such period which are provided pursuant to the employment agreement or periods aboard ship when the employee was not on watch and was not, at the direction of a superior officer, either performing other work or standing by).

[(c) The provisions of paragraph (1) of subsection (a) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands engaged in commerce or in the production of goods for commerce only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5: *Provided*, That the wage order in effect prior to the effective date of this Act for any industry in Puerto Rico or the Virgin Islands shall apply to every employee in such industry covered by subsection (a) of this section until superseded by a wage order hereafter issued pursuant to the recommendations of a special industry committee appointed pursuant to section 5.]

*(c) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5: *Provided*, That (1) the following rates shall apply to any such employee to whom the rate or rates prescribed by subsection (a) would otherwise apply:*

(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, increased by 15 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order

issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (D). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1961 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

(B) During the second year after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (D).

(C) During the third year after the applicable effective date under paragraph (B), not less than the rate or rates prescribed by paragraph (B), increased by 5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (D).

(D) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A), (B), or (C). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1961 and any such application with respect to any rate or rates provided for under paragraph (B) or (C) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B) or (C). The Secretary shall promptly consider such application and may appoint a review committee only if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A), (B), or (C) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A), (B), or (C).

(E) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A), (B), or (C), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (D) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection.

The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

(2) *In the case of any such employee to whom subsection (b) would otherwise apply, the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates, in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1961.*

(3) *The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that (i) no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) and (ii) where an increase in the minimum wage rate or rates provided for in paragraph (B) or (C) shall have become effective for such industry without an application having been filed under paragraph (D), no special industry committee for such industry shall hold any hearing within one year after such an increase shall have become effective. The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee.*

SEC. 7. (a) (1) *Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce for a workweek longer than forty hours, unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is [employed.] employed; and*

(2) *No employer shall employ any of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1), (2), or (3), or in an establishment described in section 3(s)(4), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this subsection, or (ii) is brought within the purview of this subsection by the amendments made to section 13 of this Act by the Fair Labor Standards Amendments of 1961—*

(A) *for a workweek longer than forty-four hours during the second year from the effective date of the Fair Labor Standards Amendments of 1961,*

(B) *for a workweek longer than forty-two hours during the third year from such date,*

(C) *for a workweek longer than forty hours after the expiration of the third year from such date,*

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(b) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of that specified in such subsection without paying the compensation for overtime employment prescribed therein if such employee is so employed—

(1) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand and forty hours during any period of twenty-six consecutive weeks, or

(2) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that during a specified period of fifty-two consecutive weeks the employees shall be employed not more than two thousand two hundred and forty hours and shall be guaranteed not less than one thousand eight hundred and forty hours (or not less than forty-six weeks at the normal number of hours worked per week, but not less than thirty hours per week) and not more than two thousand and eighty hours of employment for which he shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of [forty hours in the workweek] *the maximum workweek applicable to such employee under subsection (a) or two thousand and eighty in such period at rates not less than one and one-half times the regular rate at which he is employed; or*

[(3) *for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year in an industry found by the Secretary to be of a seasonal nature,*]

(3) *for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year (i) in an industry found by the Secretary of Labor to be of a seasonal nature, or (ii) in an industry engaged in the first processing of, or in canning or packing perishable or seasonal fresh fruits or vegetables, or in the first processing, within the area of production (as defined by the Secretary), of any agricultural or horticultural commodity during seasonal operations, or in handling, slaughtering, or dressing poultry or livestock: Provided, That in any industry to which both clauses (i) and (ii) apply, such period shall not exceed ten workweeks in the aggregate in any calendar year,*

and if such employee receives compensation for employment in excess of twelve hours in any workday, or for employment in excess of fifty-six hours in any workweek, as the case may be, at a rate not less than

one and one-half times the regular rate at which he is employed. *In the case of any employee employed in an industry to which both (i) and (ii) of clause (3) apply, the provisions of subsection (a) shall not apply during a period or periods of not more than ten workweeks in the aggregate in any calendar year, which shall be in addition to the period or periods provided with respect to such employee in clause (3).*

(c) In the case of an employer engaged in the first processing of milk, buttermilk, whey, skimmed milk, or cream into dairy products, or in the ginning and compressing of cotton, or in the processing of cottonseed, or in the processing of sugar beets, sugar-beet molasses, sugarcane, or maple sap, into sugar (but not refined sugar) or into sirup, the provisions of subsection (a) shall not apply to his employees in any place of employment where he is so engaged¹; and in the case of an employer engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits or vegetables, or in the first processing, within the area of production (as defined by the Secretary), of any agricultural or horticultural commodity during seasonal operations, or in handling, slaughtering, or dressing poultry or livestock, the provisions of subsection (a), during a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, shall not apply to his employees in any place of employment where he is so engaged¹.

(d) As used in this section the "regular rate" at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf of, the employee, but shall not be deemed to include—

(1) sums paid as gifts; payments in the nature of gifts made at Christmas time or on other special occasions, as a reward for service, the amounts of which are not measured by or dependent on hours worked, production, or efficiency;

(2) payments made for occasional periods when no work is performed due to vacation, holiday, illness, failure of the employer to provide sufficient work, or other similar cause; reasonable payments for traveling expenses, or other expenses, incurred by an employee in the furtherance of his employer's interests and properly reimbursable by the employer; and other similar payments to an employee which are not made as compensation for his hours of employment;

(3) sums paid in recognition of services performed during a given period if either, (a) both the fact that payment is to be made and the amount of the payment are determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement, or promise causing the employee to expect such payments regularly; or (b) the payments are made pursuant to a bona fide profit-sharing plan or trust or bona fide thrift or savings plan meeting the requirements of the Secretary set forth in appropriate regulations which he shall issue, having due regard among other relevant factors, to the extent to which the amounts paid to the employee are determined without regard to hours of work, production, or efficiency; or (c) the payments are talent fees (as such talent fees are defined and delimited by regulations of the Secretary) paid to performers, including announcers, on radio and television programs;

(4) contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old-age,

retirement, life, accident, or health insurance or similar benefits for employees;

(5) extra compensation provided by a premium rate paid for certain hours worked by the employee in any day or workweek because such hours are hours worked in excess of eight in a day or [forty in a workweek] *in excess of the maximum workweek applicable to such employee under subsection (a)* or in excess of the employee's normal working hours or regular working hours, as the case may be;

(6) extra compensation provided by a premium rate paid for work by the employee on Saturdays, Sundays, holidays, or regular days of rest, or on the sixth or seventh day of the workweek, where such premium rate is not less than one and one-half times the rate established in good faith for like work performed in nonovertime hours on other days; or

(7) extra compensation provided by a premium rate paid to the employee, in pursuance of an applicable employment contract or collective-bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal, or regular workday (not exceeding eight hours) or workweek (not exceeding [forty hours] *the maximum workweek applicable to such employee under subsection (a)*), where such premium rate is not less than one and one-half times the rate established in good faith by the contract or agreement for like work performed during such workday or workweek.

(e) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of [forty hours] *the maximum workweek applicable to such employee under subsection (a)* if such employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bargaining by representatives of employees, if the duties of such employee necessitate irregular hours of work, and the contract or agreement (1) specifies a regular rate of pay of not less than the minimum hourly rate provided in [section 6(a)] *subsection (a) or (b) of section 6 (whichever may be applicable)* and compensation at not less than one and one-half times such rate for all hours worked in excess of [forty in any] *such maximum workweek*, and (2) provides a weekly guarantee of pay for not more than sixty hours based on the rates so specified.

(f) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of [forty hours] *the maximum workweek applicable to such employee under such subsection* if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, the amount paid to the employee for the number of hours worked by him in such workweek in excess of [forty hours] *the maximum workweek applicable to such employee under such subsection—*

(1) in the case of an employee employed at piece rates is computed at piece rates not less than one and one-half times the bona fide piece rates applicable to the same work when performed during nonovertime hours; or

(2) in the case of an employee performing two or more kinds of work for which different hourly or piece rates have been established, is computed at rates not less than one and one-half

times such bona fide rates applicable to the same work when performed during nonovertime hours; or

(3) is computed at a rate not less than one and one-half times the rate established by such agreement or understanding as the basic rate to be used in computing overtime compensation thereunder: *Provided*, That the rate so established shall be authorized by regulation by the Secretary as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time;

and if (i) the employee's average hourly earnings for the workweek exclusive of payments described in paragraphs (1) through (7) of subsection (d) are not less than the minimum hourly rate required by applicable law, and (ii) extra overtime compensation is properly computed and paid on other forms of additional pay required to be included in computing the regular rate.

(g) Extra compensation paid as described in paragraphs (5), (6), and (7) of subsection (d) shall be creditable toward overtime compensation payable pursuant to this section.

SEC. 8. (a) The policy of this Act with respect to industries or enterprise in Puerto Rico and the Virgin Islands engaged in commerce or in the production of goods for commerce is to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed in paragraph (1) of section 6(a) in each such industry. The Secretary shall from time to time convene an industry committee or committees, appointed pursuant to section 5, and any such industry committee shall from time to time recommend the minimum rate or rates of wages to be paid under section 6 by employers in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce in any such industry or classifications therein. Minimum rates of wages established in accordance with this section which are not equal to the minimum wage rate prescribed in paragraph (1) of section 6(a) shall be reviewed by such a committee once during each biennial period, beginning with the biennial period commencing July 1, 1958, except that the Secretary, in his discretion, may order an additional review during any such biennial period.

(b) Upon the convening of any such industry committee, the Secretary shall refer to it the question of the minimum wage rate or rates to be fixed for such industry. The industry committee shall investigate conditions in the industry and the committee, or any authorized subcommittee thereof, shall after due notice hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under this Act. The committee shall recommend to the Secretary the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico or in the Virgin Islands a competitive advantage over any industry in the United States outside of Puerto Rico and the Virgin Islands.

(c) The industry committee shall recommend such reasonable classifications within any industry as it determines to be necessary for the purpose of fixing for each classification within such industry the highest minimum wage rate (not in excess of that prescribed in paragraph (1) of section 6(a)) which (1) will not substantially curtail employment in such classification and (2) will not give a competitive advantage to any group in the industry, and shall recommend for each classification in the industry the highest minimum wage rate which the committee determines will not substantially curtail employment in such classification. In determining whether such classifications should be made in any industry, in making such classifications, and in determining the minimum wage rates for such classifications, no classifications shall be made, and no minimum wage rate shall be fixed solely on a regional basis, but the industry committee shall consider among other relevant factors the following:

(1) competitive conditions as affected by transportation, living, and production costs;

(2) the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and

(3) the wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

No classification shall be made under this section on the basis of age or sex.

(d) The industry committee shall file with the Secretary a report containing its findings of fact and recommendations with respect to the matters referred to it. Upon the filing of such report, the Secretary shall publish such recommendations in the Federal Register and shall provide by order that the recommendations contained in such report shall take effect upon the expiration of 15 days after the date of such publication.

(e) Orders issued under this section shall define the industries and classifications therein to which they are to apply, and shall contain such terms and conditions as the Secretary finds necessary to carry out the purposes of such orders, to prevent the circumvention or evasion thereof, and to safeguard the minimum wage rates established therein.

(f) Due notice of any hearing provided for in this section shall be given by publication in the Federal Register and by such other means as the Secretary deems reasonably calculated to give general notice to interested persons.

ATTENDANCE OF WITNESSES

SEC. 9. For the purpose of any hearing or investigation provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U.S.C., 1934 edition, title 15, secs. 49 and 50) are hereby made applicable to the jurisdiction, powers, and duties of the Secretary and the industry committees.

COURT REVIEW

SEC. 10. (a) Any person aggrieved by an order of the Secretary issued under section 8 may obtain a review of such order in the United States Court of Appeals for any circuit wherein such person resides or has his⁴ principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within 60 days after the entry of such order a written petition praying that the order of the Secretary be modified or set aside in whole or in part. A copy of such petition shall forthwith be transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record of the industry committee upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part, so far as it is applicable to the petitioner. The review by the court shall be limited to questions of law, and findings of fact by such industry committee when supported by substantial evidence shall be conclusive. No objection to the order of the Secretary shall be considered by the court unless such objections shall have been urged before such industry committee or unless there were reasonable grounds for failure so to do. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence may materially affect the result of the proceeding and that there were reasonable grounds for failure to adduce such evidence in the proceedings before such industry committee, the court may order such additional evidence to be taken before an industry committee and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. Such industry committee may modify the initial findings by reason of the additional evidence so taken, and shall file with the court such modified or new findings which if supported by substantial evidence shall be conclusive, and shall also file its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order. The court shall not grant any stay of the order unless the person complaining of such order shall file in court an undertaking with a surety or sureties satisfactory to the court for the payment to the employees affected by the order, in the event such order is affirmed, of the amount by which the compensation such employees are entitled to receive under the order exceeds the compensation they actually receive while such stay is in effect.

INVESTIGATIONS, INSPECTIONS, AND RECORDS

SEC. 11. (a) The Secretary or his designated representatives may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any industry subject to this Act, and may enter and inspect such places and such records

(and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this Act, or which may aid in the enforcement of the provisions of this Act. Except as provided in section 12 and in subsection (b) of this section, the Secretary shall utilize the bureaus and divisions of the Department of Labor for all the investigations and inspections necessary under this section. Except as provided in section 12, the Secretary shall bring all actions under section 17 to restrain violations of this Act.

(b) With the consent and cooperation of State agencies charged with the administration of State labor laws, the Secretary may, for the purpose of carrying out his functions and duties under this Act, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may reimburse such State and local agencies and their employees for services rendered for such purposes.

(c) Every employer subject to any provision of this Act or of any order issued under this Act shall make, keep, and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him, and shall preserve such records for such periods of time, and shall make such reports therefrom to the Secretary as he shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this Act or the regulations or orders thereunder.

(d) The Secretary is authorized to make such regulations and orders regulating, restricting, or prohibiting industrial homework as are necessary or appropriate to prevent the circumvention or evasion of and to safeguard the minimum wage rate prescribed in this Act, and all existing regulations or orders of the Secretary relating to industrial homework are hereby continued in full force and effect.

CHILD LABOR PROVISIONS

SEC. 12. (a) No producer, manufacturer, or dealer shall ship or deliver for shipment in commerce any goods produced in an establishment situated in the United States in or about which within thirty days prior to the removal of such goods therefrom any oppressive child labor has been employed: *Provided*, That any such shipment or delivery for shipment of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer, manufacturer, or dealer that the goods were produced in compliance with the requirements of this section, and who acquired such goods for value without notice of any such violation, shall not be deemed prohibited by this subsection: *And provided further*, That a prosecution and conviction of a defendant for the shipment or delivery for shipment of any goods under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipments or deliveries for shipment of any such goods before the beginning of said prosecution.

(b) The Secretary, or any of his authorized representatives, shall make all investigations and inspections under section 11(a) with respect to the employment of minors, and, subject to the direction and control of the Attorney General, shall bring all actions under

section 17 to enjoin any act or practice which is unlawful by reason of the existence of oppressive child labor, and shall administer all other provisions of this Act relating to oppressive child labor.

(c) No employer shall employ any oppressive child labor in commerce or in the production of goods for commerce *or in any enterprise engaged in commerce or in the production of goods for commerce.*

SEC. 13.³ (a) The provisions of section 6 and 7 shall not apply with respect to—

(1) any employee employed in a bona fide executive, administrative, [professional, or local retailing] *or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act); or*

(2) any employee employed by any retail or service establishment *(except an establishment, other than a hotel, motel, or restaurant, in an enterprise described in section 3(s)(1) or an establishment described in section 3(s)(5)), more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located. A "retail or service establishment" shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or*

(3) any employee employed by any establishment *(except an establishment in an enterprise described in section 3(s)(2) engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment's annual dollar volume of sales of such services is made within the State in which the establishment is located: Provided, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, or communications business[; or]: Provided further, That this exemption shall not apply to any employee of any such establishment which has an annual dollar volume of sales of such services of \$250,000 or more and which is engaged in substantial competition in the same metropolitan area with an establishment less than 50 per centum of whose annual dollar volume of sales of such services is made within the State in which it is located; or*

(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or*

(5) any employee employed in the catching, taking, *propagating*, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, *or in the first processing, canning or packing such marine products at sea as an incident to, or in con-*

³ The indented paragraphs in subsections (a) and (b) of this section are shown in the existing law as numbered clauses.

junction with, such fishing operations, including the going to and returning from work [and including employment in the loading, unloading, or packing of such products for shipment or in propagating, processing (other than canning), marketing, freezing, curing, storing, or distributing the above products or byproducts thereof;] and loading and unloading when performed by any such employee; or

(6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

(7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or

(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where printed and published or counties contiguous thereto; or

[(9) any employee of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, not included in other exemptions contained in this section; or]

(9) any employee employed in a motion picture theater; or

(10) any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or

(11) any switchboard operator employed [in a] *by an independently owned* public telephone exchange which has not more than seven hundred and fifty stations; or

(12) any employee of an employer engaged in the business of operating taxicabs; or

(13) any employee or proprietor in a retail or service establishment [as defined in] *which qualifies as an exempt retail or service establishment under clause (2) of this subsection* with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

(14) any employee employed as a seaman *on a vessel other than an American vessel*; or

(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve.

(b) The provisions of section 7 shall not apply with respect to—

(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and

maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

(4) any employee employed in the canning, *processing, marketing, freezing, curing, storing, packing for shipment, or distributing* of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or

(5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

(6) *any employee employed as a seaman; or*

(7) *any employee of a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, not included in other exemptions contained in this section; or*

(8) *any employee employed as an automobile salesman by a retail or service establishment engaged in the business of selling automobiles or trucks; or*

(9) *any employee of a gasoline service station.*

(c) The provisions of section 12 relating to child labor shall not apply with respect to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, or to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions.

(d) The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer.

(e) The provisions of section 7 shall not apply with respect to employees for whom the Secretary is authorized to establish minimum wage rates as provided in section 6(a)(3), except with respect to employees for whom such rates are in effect; and with respect to such employees the Secretary may make rules and regulations providing reasonable limitations and allowing reasonable variations, tolerances, and exemptions to and from any or all of the provisions of section 7 if he shall find, after a public hearing on the matter, and taking into account the factors set forth in section 6(a)(3), that economic conditions warrant such action.

(f) The provisions of sections 6, 7, 11, and 12 shall not apply with respect to any employee whose services during the workweek are performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the following: a State of the United States; the District of Columbia; Alaska; Hawaii; Puerto Rico; the Virgin Islands; Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (ch. 345, 67 Stat. 462); American Samoa; Guam; Wake Island; and the Canal Zone.

LEARNERS, APPRENTICES, AND HANDICAPPED WORKERS

SEC. 14. The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for (1) the employment of learners, of

apprentices, and of messengers employed primarily in delivering letters and messages, under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe, and (2) the employment of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, under special certificates issued by the Secretary, at such wages lower than the minimum wage applicable under section 6 and for such period as shall be fixed in such certificates.

PROHIBITED ACTS

SEC. 15. (a) After the expiration of one hundred and twenty days from the date of enactment of this Act, it shall be unlawful for any person—

(1) to transport, offer for transportation, ship, deliver, or sell in commerce, or to ship, deliver, or sell with knowledge that shipment or delivery or sale thereof in commerce is intended, any goods in the production of which any employee was employed in violation of section 6 or section 7, or in violation of any regulation or order of the Secretary issued under section 14; except that no provision of this Act shall impose any liability upon any common carrier for the transportation in commerce in the regular course of its business of any goods not produced by such common carrier, and no provision of this Act shall excuse any common carrier from its obligation to accept any goods for transportation and except that any such transportation, offer, shipment, delivery, or sale of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer that the goods were produced in compliance with the requirements of the Act, and who acquired such goods for value without notice of any such violation, shall not be deemed unlawful;

(2) to violate any of the provisions of section 6 or section 7, or any of the provisions of any regulation or order of the Secretary issued under section 14;

(3) to discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding, or has served or is about to serve on an industry committee;

(4) to violate any of the provisions of section 12;

(5) to violate any of the provisions of section 11(c), or any regulation or order made or continued in effect under the provisions of section 11(d), or to make any statement, report, or record filed or kept pursuant to the provisions of such section or of any regulation or order thereunder, knowing such statement, report, or record to be false in a material respect.

(b) For the purposes of subsection (a)(1) proof that any employee was employed in any place of employment where goods shipped or sold in commerce were produced, within ninety days prior to the removal of the goods from such place of employment, shall be prima facie evidence that such employee was engaged in the production of such goods.

PENALTIES

SEC. 16. (a) Any person who willfully violates any of the provisions of section 15 shall upon conviction thereof be subject to a fine of not more than \$10,000, or to imprisonment for not more than six months, or both. No person shall be imprisoned under this subsection except for an offense committed after the conviction of such person for a prior offense under this subsection.

(b) Any employer who violates the provisions of section 6 or section 7 of this Act shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages. Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. *The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection.*

(c) The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or section 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. When a written request is filed by any employee with the Secretary claiming unpaid minimum wages or unpaid overtime compensation under section 6 or section 7 of this Act, the Secretary may bring an action in any court of competent jurisdiction to recover the amount of such claim: *Provided*, That this authority to sue shall not be used by the Secretary in any case involving an issue of law which has not been settled finally by the courts, and in any such case no court shall have jurisdiction over such action or proceeding initiated or brought by the Secretary if it does involve any issue of law not so finally settled. The consent of any employee to the bringing of any such action by the Secretary, unless such action is dismissed without prejudice on motion of the Secretary, shall constitute a waiver by such employee of any right of action he may have under subsection (b) of this section for such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. Any sums thus recovered by the Secretary on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid,

on order of the Secretary, directly to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts. In determining when an action is commenced by the Secretary under this subsection for the purposes of the two-year statute of limitations provided in section 6(a) of the Portal-to-Portal Act of 1947, it shall be considered to be commenced in the case of any individual claimant on the date when the complaint is filed if he is specifically named as a party plaintiff in the complaint, or if his name did not so appear, on the subsequent date on which his name is added as a party plaintiff in such action.

(d) In any action or proceeding commenced prior to, on, or after the date of enactment of this subsection, no employer shall be subject to any liability or punishment under this Act or the Portal-to-Portal Act of 1947 on account of his failure to comply with any provision or provisions of such Acts (1) with respect to work heretofore or hereafter performed in a workplace to which the exemption in section 13(f) is applicable, (2) with respect to work performed in Guam, the Canal Zone or Wake Island before the effective date of this amendment of subsection (d), or (3) with respect to work performed in a possession named in section 6(a)(3) at any time prior to the establishment by the Secretary, as provided therein, of a minimum wage rate applicable to such work.

SEC. 17. The district courts, together with the [District Court for the Territory of Alaska, the] United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15[*Provided, That no court shall have jurisdiction, in any action brought by the Secretary to restrain such violations, to order the payment to employees of unpaid minimum wages or unpaid overtime compensation or an additional equal amount as liquidated damages in such action*], *including in the case of violations of section 15(a)(2) the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947).*

RELATION TO OTHER LAWS

SEC. 18. No provision of this Act or of any order thereunder shall exclude noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this Act or a maximum workweek lower than the maximum workweek established under this Act, and no provision of this Act relating to the employment of child labor shall justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established under this Act. No provision of this Act shall justify any employer in reducing a wage paid by him which is in excess of the applicable minimum wage under this Act, or justify any employer in increasing

hours of employment maintained by him which are shorter than the maximum hours applicable under this Act.

SEPARABILITY OF PROVISIONS

SEC. 19. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

MINORITY VIEWS

We, the undersigned members of the committee, are convinced that H.R. 3935 should not be enacted in its present form. The immediate effect of enactment of this bill will be to throw people out of work and to add to the already serious unemployment problem. The people who will lose their jobs—the uneducated, the poorly trained, the handicapped, the young who have recently entered the work force, and the elderly—are those now hardest hit by unemployment and the least likely to find other employment. This bill must be viewed for what it really is, a long step toward bringing all American business, irrespective of size and location, within the reach and restrictions of the Fair Labor Standards Act. Under the theory which this bill establishes, even the corner grocery and the local pharmacy can be covered.

MAJOR OBJECTIONS TO THE BILL

Although this country is now faced with new and serious economic conditions and the enactment of a bill of this type will have far-reaching ramifications, only 3½ days of hearings were held and only 11 witnesses were heard. Many interested parties were denied the right to testify and the minority was not consulted concerning who the witnesses would be or their number. Moreover, it was only as result of a specific request by the minority that Secretary of Commerce Luther H. Hodges was permitted to appear and testify regarding this important bill.

UNEMPLOYMENT

At the present time, there are 5.7 million unemployed in the United States. Of this number, 12.4 percent are unskilled and 29.3 percent are semiskilled. Although the testimony regarding a bill of this nature is often in conflict and disagreement, there was remarkable unanimity concerning the fact that extending the coverage to retail and service enterprises and raising the minimum wage to \$1.25 will cause additional unemployment.

It was also generally agreed that those who would lose their jobs are the unskilled, the poorly educated, the handicapped, the young person who has recently entered the work force, and the older person. These are the very individuals who have the greatest difficulty in finding other employment once they lose their jobs. However, and notwithstanding that there was agreement on these facts, the proponents of this bill would permit this additional unemployment on the gamble that in the indefinite future new jobs will be created. It is tragic that they are gambling with the jobs of those who can least afford to lose them and there are no statistics or firm facts to back up their evaluation. On the contrary, the 1960 report submitted to the Congress by the Department of Labor, in accordance with the requirements of section 4(d) of the Fair Labor Standards Act, indicated that

following the increase in the minimum wage in 1956 to \$1, there was a period of adjustment during which time there were significant declines in employment in low wage industries. Moreover, more than 3 years were required to make a reasonably complete adjustment to the new rate and even after 3 years there was a large concentration of workers at or near the minimum. The Department concluded that it would be unwise to adopt another increase in the minimum wage with an impact greater than that of the \$1 rate because of the danger of substantial curtailment of employment. Measured in terms of the number of workers for whom wage increases would be required, it was estimated that raising the minimum wage at this time to \$1.15 would have an impact similar to that of the previous increase from 75 cents to \$1.

That this statement still reflects the thinking of the Department of Labor is attested to by the fact that it was only following a last-minute request by Secretary of Labor Goldberg that the provisions of the bill were changed so that the minimum wage for presently covered employees would not be advanced to \$1.25 until 28 months after date of enactment. This retreat from the \$1.25 minimum wage also indicates that there are serious defects in the increased-purchasing-power theory which has been advanced by Secretary Goldberg and other proponents of the bill and which would have us purchase our way to prosperity by raising the minimum wage. If this is all that is needed, why should the advance to \$1.25 be delayed for 28 months for those presently covered and 40 months for those newly covered? Indeed, why not immediately set the minimum wage at \$2 or even \$3? The answer is obvious and has in fact been given by the proponents of this bill when they counsel delay.

Testimony was received that the retail and service employer, faced with an increase in the minimum wage, will make the necessary adjustment by laying off some of their less skilled employees. Streamlined methods of operation will be instituted which will require fewer employees. Marginal employees whom an employer now carries will be dismissed. In addition, many of the smaller stores with a small margin of profit will be eliminated entirely.

As an example, Mr. Eugene B. Sydnor, president of a company which is composed of 32 junior department stores, stated that in the event the minimum wage is increased to \$1.25, his profits would be reduced to minus 1 percent; in order to adjust to this situation, 30 to 40 of his employees, for the most part elderly ladies and part-time students, would have to be laid off.

Certainly those employees who will lose their jobs as a result of this legislation would rather remain employed than be forced to seek other employment, turn to welfare, or attempt to live solely on social security payments.

EXTENDED COVERAGE

The Department of Labor has estimated that in the event this bill is enacted an additional 4,311,000 employees will be covered by the provisions of the Fair Labor Standards Act. Of this number, 2,940,000 are presently employed by retail and service enterprises throughout the United States. To date, these employees have been excluded on the basis that such enterprises are purely intrastate in character and properly subject to State regulation rather than Federal. With certain exceptions, coverage is now to be accomplished if the enterprise

has an annual dollar volume of sales of not less than \$1 million, exclusive of excise taxes. Testimony was given by Secretary of Labor Arthur Goldberg that the establishment of the \$1 million figure was a pragmatic decision and one that could just as well have been \$500,000 or even less.

On this same point, Secretary Hodges stated that he would not argue whether it ought to be a \$1 million, a \$750,000, or a \$2 million figure. The important thing was to put a figure somewhere in order to push a bill through which will cover as many people as possible. Mr. William F. Schnitzler, secretary-treasurer of the AFL-CIO, speaking for George Meany, stated that he believed the establishment of the \$1 million figure was not even a compromise but rather a surrender. He urged that the \$500,000 figure, and in some cases a \$250,000 figure, be established immediately.

Mr. Jacob Clayman, administrative director, Industrial Union Department of the AFL-CIO, speaking for Walter Reuther, also urged the establishment of the \$500,000 figure. The most illuminating statement concerning this aspect, was made by Mr. James A. Suffridge, president of the Retail Clerks International Association, AFL-CIO, when he observed that a \$500,000 cutoff was reasonable, practical, economically sound, morally right and politically possible, but if Congress wished to lower the coverage figure and include smaller enterprises, no objection would be heard from his organization.

Thus, employees of small stores are not covered at the present time only because the \$1 million figure has been written into the bill. However, if this bill establishes the principle, coverage can be extended by merely lowering the annual dollar volume amount.

Simply stated, this bill challenges and overrules the historical concept that there is activity which is intrastate in character and subject only to State regulation. This is certainly contrary to the basic congressional intent and purpose underlying Federal wage and hour regulation which excluded local businesses from the act and left the matter of regulating the minimum wages and hours of such businesses to the States. That the States have made substantial progress in this field is indicated by the fact that at the present time, 33 States, Puerto Rico, and the District of Columbia, have some type of minimum wage law.

Under the dollar volume test, there is no attempt to equate coverage with interstate activity. Establishments will be covered whether or not they are located in more than one State and notwithstanding the fact that the employees may not be engaged in commerce or in the production of goods for commerce in the traditional sense. As indicated above, an abandonment of this concept will, in time, lead to Federal regulation of all retail and service enterprises regardless of size or location.

IMPACT OF THE ESCALATOR PROVISIONS

Under the provisions of this bill, the minimum wage for presently covered employees will be raised to \$1.15 during the first 2 years from the effective date of the bill and to \$1.25 thereafter. Newly covered employees will have a minimum wage of \$1 during the first year from the effective date of the bill, \$1.05 during the second year from such

date, \$1.15 during the third year from such date, and \$1.25 thereafter. In addition, the newly covered employees, although not subject to the overtime provisions of the bill the first year, will be paid overtime pay during the second year for all hours worked during a workweek in excess of 44, during the third year for all hours in excess of 42, and during the fourth year and thereafter for all hours in excess of 40.

Thus, this bill will set in motion future raises in the minimum wage, and in the payment of overtime, even though the economic conditions of the country at that future point in time and the effect of the previous raises in the minimum wage and the extension of coverage, are, of course, now totally unknown. Moreover, in the limited testimony which was taken regarding this bill, no attempt was made to forecast in any specific way what, in fact, would be the economic posture of the country at some future date. Or even more important, what specifically would be the impact of raising the minimum wage and paying overtime pay, particularly in the newly covered retail and service enterprises. Significantly, however, Secretary Goldberg did advise in his supplementary statement that the impact of the \$1 rate in retail trade will be twice as large as was the impact of the \$1 minimum in manufacturing in 1956. Attempting to legislate in this field for even 2 years hence is hazardous enough, while attempting to legislate for 4 years in the future borders on the dangerous. This is the reason that Congress is in session every year and enacts legislation which is then necessary and required. A hope and a guess is not a solid basis for legislation.

It should also be noted that the escalator provisions of this bill which become effective at a predetermined time without regard to the economic conditions, in effect cancel the provisions of section 4(d) of the present act. Under this section, the Secretary of Labor is required to annually submit to the Congress a report which contains an evaluation and appraisal of the minimum wages established and any recommendations for further legislation, taking into consideration any changes which may have occurred in the cost of living, productivity, and the level of wages in manufacturing. The importance of this report is emphasized by the fact that the 1960 4(d) report, as indicated earlier, cautions that under present conditions an increase in the minimum wage to \$1.25 could cause substantial curtailment of employment and reduce the ability of American producers to compete with foreign producers here and abroad. The conclusion would seem inescapable that future raises in the minimum wage should be based only upon economic facts and figures which, at the appropriate time, are brought to the attention of the Congress.

THE HOFFA AMENDMENT

Although there are many other serious defects and contradictions in this bill which have not been touched upon, at least one additional point should be mentioned. The proposed bill would exclude from the overtime provisions any employee who is employed as a driver or driver's helper making local deliveries in pursuance of an agreement made by a collective bargaining representative certified by the National Labor Relations Board if such agreement provides compensation for such employment on the basis of trip rates or other delivery payment plan. This amendment can appropriately be termed the "Hoffa

amendment" because it would exempt employees of those employers who deal with the Teamsters Union, but it would discriminate against employers whose employees elect not to be represented by a union. Accordingly, among the other "advantages" of dealing with the Teamsters, this bill would add the advantage of being able to avoid the restrictions and penalties of the overtime provisions of the Fair Labor Standards Act.

CONCLUSION

For the reasons stated above, the minority is opposed to the enactment of this bill. We intend to support on the floor of the House a substitute proposal which will provide a realistic increase in the minimum wage and which will take into account our present economic conditions.

CARROLL D. KEARNS.
CLARE E. HOFFMAN.*
WILLIAM H. AYRES.
ROBERT P. GRIFFIN.
EDGAR W. Hiestand.
ALBERT H. QUIE.
PETER A. GARLAND.
DONALD C. BRUCE.
JOHN M. ASHBROOK.
DAVE MARTIN.

*While I am enthusiastically and heartily in general agreement with the foregoing views, I am not at this time agreeing to vote for any substitute.

CLARE E. HOFFMAN.

ADDITIONAL VIEWS OF HON. ADAM C. POWELL

Because the report for the Committee on Education and Labor on H.R. 3935, the Fair Labor Standards Amendments of 1961 does not contain any reference to certain considerations which I urged during the course of our deliberations, I am filing this additional statement.

EXCLUSION OF HOTEL, MOTEL, AND RESTAURANT WORKERS FROM THE WAGE AND HOUR COVERAGE

Both the House and Senate bills offered, on this subject, during the 86th Congress, included under the newly covered employees those employed in hotels, motels and restaurants, except for what are known as "tipped" employees. I was very much surprised to find that the measure recommended to us by the administration in this session of the Congress eliminated these workers from coverage by excepting hotel, motel, and restaurant establishments from retail and service industry standards.

During the appearance of the Secretary of Labor before our subcommittee, holding hearings on this bill, he was specifically asked about this obvious omission. I was not satisfied with his reply which was in part to the effect that in the administration's judgment a "realistic appraisal" of the history of the legislation in the previous Congress indicated such coverage was not feasible at this time, although warranted.

I must regard this determination by the administration as a discriminatory decision abetting the continuation of a particular underprivileged and underpaid class of workers.

My amendment to this legislation would only have affected the nontipped employees of approximately 200 hotels, motels, and restaurants grossing over \$1 million per year. The maids, housemen, elevator operators, telephone operators, maintenance men, front office clerks, cooks, dishwashers, pantry girls, checkers and cashiers who would have been covered are employed by establishments whose daily rates and annual incomes have risen, over the past 20 years, most precipitously while the wages paid by these same establishments have experienced a much more modest rise. These employees are all in the nontipped category. These employees are most in need of FLSA protection.

I will not relax my efforts to extend coverage of the Fair Labor Standards Act to these employees. I fully expect that extension of coverage will be before us soon again for further consideration.

IMPACT OF THE PROVISIONS OF THE AMENDMENTS UPON THE ECONOMY
OF PUERTO RICO AND THE VIRGIN ISLANDS

The committee bill provides that the present wage order minimums be increased on the same percentage basis as the minimum wage on the mainland. This provision was supported by the Governor of Puerto Rico and honored a pledge he had made to certain labor leaders in New York City. I did not oppose this particular treatment of insular wages only because special provision was made for reviews when industry can prove to the Secretary of Labor that he should have reasonable cause to believe that compliance may substantially curtail employment in a particular industry or industries. This provision for a "hardship" review may prevent the imposition of wage rates which will have the effect of stifling the efforts being made by the insular government, industry and labor to continue the improvement of the economic climate of these Islands.

During January of this year, I had an opportunity to conduct an inquiry in Puerto Rico to ascertain the views of Government officials, labor spokesmen and representatives of various industry groups toward proposed amendments to the Fair Labor Standards Act. A memorandum covering the substance of their respective views is to be found on page 352 of the printed record of hearings on this measure. The information gathered, during the course of this inquiry, as well as additional data which has been made available to me, I believe convincingly demonstrates that a 15 percent increase in wage rates to be followed 2 years hence by an additional 10 percent increase might create inequitable conditions in certain industries that could cripple the efforts made over the last 8 years in Operation Bootstrap.

The special review committees, to be appointed by the Secretary of Labor, will have to be sensitive to the peculiar problems of an essentially agrarian economy that has only recently begun a concerted action to raise living standards through diversification of economic effort and whose competitive position must be enhanced by an intelligent appraisal of all the ramifications of such a major increase in wage rates as is provided in this statute.

ADDITIONAL VIEWS OF HON. HERBERT ZELENKO

I wish it noted in this report that I join in the additional views expressed by the chairman of our committee with regard to the exclusion of hotel, motel, and restaurant workers from coverage by the terms of these amendments.

ADDITIONAL VIEWS OF HON. CLARE E. HOFFMAN

The basic purpose of the original fair labor standards bills was to assure the lower paid workers a wage sufficient to purchase at least the necessities of life and enable them to enjoy the American standard of living.

On May 24, 1937, President Franklin Delano Roosevelt sent a message to Congress in which he wrote:

One-third of our population, the overwhelming majority of which is in agriculture or industry, is ill nourished, ill clad, and ill housed.

* * * * *

And so to protect the fundamental interests of free labor and a free people we propose that only goods which have been produced under conditions which meet the minimum standards of free labor shall be admitted to interstate commerce. Goods produced under conditions which do not meet rudimentary standards of decency should be regarded as contraband and ought not to be allowed to pollute the channels of interstate trade.¹

Immediately following the reading of the President's message, Senator Hugo L. Black and Representative William Patrick Connery, Jr., introduced bills to carry out the objectives outlined by the President² and to implement the promise made in the Democratic Party platform adopted at Philadelphia in 1936.³

It was said that the bill was not intended to invade the right of employer and employee to make their own agreement as to wages, that it applied only to those who were the helpless victims of their own bargaining weakness.⁴

The Senate committee wrote that in its opinion—

a start should be made at the present session of the Congress to protect this Nation from the evils and dangers resulting from wages too low to buy the bare necessities of life and from long hours of work injurious to health. This law proposes to accomplish this purpose by closing the channels of interstate commerce to goods produced under conditions which do not meet the rudimentary standards of a civilized democracy.

¹ Congressional Record, May 24, 1937, vol. 81, pt. 5, 75th Cong., 1st sess., pp. 4983-4984.

² H. Rept. 1452 [to accompany S. 2475], 75th Cong., 1st sess., p. 8. (House bill was H. R. 7200.)

³ "The reasons for establishing fair labor standards are well known to all of us. First, the legislation is based on the promise made to the workers of the country at the Democratic convention in Philadelphia in 1936. This promise is included in our party platform * * *" (Congressional Record, Dec. 13, 1937 (Mrs. Norton, chairman of the committee), p. 1390, vol. 82, pt. 2, 75th Cong., 2d sess.).

⁴ S. Rept. 884, July 6 (calendar day, July 8), 1937 [to accompany S. 2475], 75th Cong., 1st sess., pp. 3-4, contained the following statement: "The right of individual or collective employees to bargain with their employers concerning wages and hours is recognized and encouraged by this bill. It is not intended that this law shall invade the right of employer and employee to fix their own contracts of employment wherever there can be any real, genuine bargaining between them. It is only those low-wage and long-working-hour industrial workers, who are the helpless victims of their own bargaining weakness, that this bill seeks to assist to obtain a minimum wage."

When the bill was before the House, the House report, among other things, stated that the bill—

only attempts in a modest way to raise the wages of the *most poorly paid workers* and to *reduce the hours of those most overworked*. [Italic supplied.]

and to eliminate—

substandard labor conditions in occupations in and directly affecting interstate commerce.

In presenting this bill on December 13, 1937, the chairman of the committee, the member from New Jersey, Mrs. Norton, referring to the worker, said:

He is protected in this bill because whether or not he is aware of it he is helping to support, through taxation and through charity, the worker whose wages will not meet bare living costs and whose health is depleted through long hours of work and undernourishment, causing them to become a liability on their communities.⁵

SUPREME COURT'S INTERPRETATION OF THE PURPOSE OF THE LEGISLATION

Fair labor standards legislation has been before the Supreme Court many times.⁶

Writing for the Court in October of 1940, Mr. Justice Stone, referring to the Fair Labor Standards Act, among other things, said:

Its purpose, as we judicially know from the declaration of policy in section 2(a) of the act, and the reports of congressional committees proposing the legislation * * * is to exclude from interstate commerce goods produced for the commerce and to prevent their production for interstate commerce, under conditions detrimental to the maintenance of the minimum standards of living necessary for health and general well-being * * *.⁷

The congressional policy declaration to which the Justice referred stated (29 U.S.C. 202(a)):

The Congress hereby finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers * * *.⁸

Again, 4 years later, Mr. Justice Reed, speaking for the Court, said:

The legislative history of the Fair Labor Standards Act shows an intent on the part of Congress to protect certain groups of the population from substandard wages and excessive hours which endangered the national health and well-being and the free flow of goods in interstate commerce.⁹

⁵ Congressional Record, Dec. 13, 1937, p. 1390

⁶ See annotations covering decisions under 29 U.S.C.A. 201-219.

⁷ U.S. v. *Darby*, 312 U.S. 100, 109.

⁸ *Ibid.*

⁹ *Brooklyn Bank v. O'Neil*, 324 U.S. 697, 706.

COMMON KNOWLEDGE

It is well known and a matter of common knowledge that the legislation was aimed at the deplorable conditions created by the sweatshops and the hardships imposed on those in the cities who were employed on take-home work.

Unfortunately, this type of legislation has always resulted in increased unemployment—a loss of wages—among the workers receiving the lowest wage.

THE PRESENT BILL

Even though by bureaucratic directive and court decision many operations have been designated as falling within the definition of interstate commerce or as affecting interstate commerce, it is evident that, because of the exemptions carried in the present bill, it does not protect many of the lower paid workers the original legislation was to aid.

THE FUTILITY OF THE LEGISLATION

A common statement is that legislation of this type is necessary and designed to make possible, perhaps easier, for the worker the purchase of what is necessary to enjoy a decent standard of living.

Fixing the number of dollars which shall be paid to a worker so that he may buy enough of the necessities of life and of the things which contribute to his comfort and pleasure so that he may enjoy the average American standard of living, is of no avail unless the price of obtaining the things necessary to make that standard possible is fixed.

Neither a Presidential committee or commission, nor a group of economic professors or experts is needed to inform the average American that the higher the income, the greater the volume of currency in circulation, the higher the price—not only of luxuries but of necessities.

If the economists, the experts, the professors—in fact, all the highly developed intellects—are not aware of this fact, they can quickly be advised by the average housewife, or, if they prefer, learn by experience, the hard teacher.

That the legislation is not for the good of all, is not sound in principle, is shown by the exemptions provided for in the bill.

As an example: Many small merchants are exempt. Why? Because, if the basic wage fixed by the bill is paid, they can no longer operate at a profit.

If they cannot operate at a profit, they are forced out of business. The jobs they created cease to be; hence, no employer, no employee, no job, no wage.

There is no way of accurately estimating the businesses, the number of employers, who will be forced out of business, the number of jobs destroyed, the number unemployed, because of the enactment of this legislation.

It is admitted by all that some unemployment will result from the adoption of this bill because not all available workers who want jobs will be able to earn even the basic wage established by the bill.

Fowl, cattle, can be fed a formula on schedule and more and better meat can be produced. But, strange as it may seem to some, humans

will not in all things submit to dictation. Hitler sought regimentation. Disaster followed.

For 185 years we thrived, grew rich and powerful through competition and reliance upon the law of supply and demand.

History does not record a single example where a nation grew great and long survived when its citizens were regimented, their activities controlled by a central government.

Because I believe in the greatest possible degree of freedom of the individual so long as it does not interfere with the welfare of the people as a whole, I cannot support this proposed legislation.

CLARE E. HOFFMAN.

SEPARATE VIEWS OF HON. PETER FRELINGHUYSEN, JR.

I strongly favor legislation which would provide a moderate increase in the Federal minimum wage and a suitable extension of coverage. However, in my opinion there is much merit in the validity of the reservations expressed in the minority views. I should like to make a few additional observations. It seems to me that insufficient consideration has been given to the amendments now being proposed to the Fair Labor Standards Act. The main objective of the committee has been to push through a bill, without fully considering its provisions. The argument that extensive hearings were held last spring does not justify the "rump" hearings held this year, with only 11 witnesses given an opportunity to testify.

Millions of people, both employers and employees, will be directly, and quite possibly adversely, affected by passage of this bill. The proposed increase in the minimum wage need not raise serious apprehension, but one questions the wisdom of the mandatory further increase in 2 years' time. It would seem far better for Congress to make a prudent increase now, and then in 2 years consider a further increase if economic conditions then justify such a move.

The impact of this legislation will be felt especially with respect to newly covered employees. It is in this area that Congress needs to guard against action which might substantially increase unemployment.

Many witnesses sought to testify on this bill. Their prepared statements form part of the printed hearings, and are therefore now available for study. However, the bill was approved before the printed hearings were available. Furthermore, by depriving interested witnesses of an opportunity to testify directly, the committee deprived all of us of any actual discussion of the justifications for, and explanations of the many points raised.

There was, for example, only one witness from the retail trades. Surely, views of other witnesses should have been aired thoroughly in committee, if for no other reason than to avoid the charge that the allegedly adverse effects of this legislation had not been thoroughly considered.

Instead of an orderly hearing of witnesses, and a careful weighing of the arguments presented, the committee has responded—or failed to respond in many cases—to informal suggestions, advice and criticism. One amendment for example, in section 13(b), exempts from the overtime provisions of the law radio announcers, news editors, and chief engineers operating in communities with a population of less than 50,000. No provision affecting this group was included in the bill incorporating the administration's recommendations. Needless to say no witnesses were heard this year on this subject. Individually, however, members of the committee were approached by representatives from the radio industry, who suggested an amendment exempting radio announcers, news editors, and chief engineers in communities of under 100,000. Their suggestion was added in committee. Then literally at the last minute the provision was changed by the so-called Trenton amendment to the 50,000 figure. It seems that the Trenton-Morrisville area, represented in part by Representative Frank Thompson, of our committee, likes the smaller figure.

ADDITIONAL MINORITY VIEWS OF HON. EDGAR W. Hiestand

The minimum wage laws were first enacted to correct sweatshop conditions, but have been carried on nominally "to help low income people attain a decent standard of living." Whether or not the Federal Government has this authority is a moot question. We do have the laws.

H.R. 3935, the substitute bill to increase the minimum wage, in my judgment, would largely defeat its stated purpose. In other words, it simply wouldn't work:

1. The raise of the minimum wage to the lowest income people would, according to union and other witnesses, force differential adjustments up to the upper levels. Furthermore, the effect would be spread to all competitive industries, increasing the cost of living and increasing the cost of production. The former would be particularly tragic to the very low income people whom the proponents profess to help. The latter would put us further out of competition with imports, thus increasing unemployment which the administration professes to be fighting, and increasing the drain on our gold reserve.

2. Most testimony showed that such an increase, and added coverage, would result in large increased unemployment, especially in the ranks of many thousands of marginal workers, again defeating the administration's avowed purpose. This would be especially tragic for marginal workers for whom there are few, if any, other jobs.

3. But especially vicious is the basis of coverage or exemption in this bill. It is strictly on a dollar volume basis, and has no reference whatsoever to interstate commerce. If this definition of interstate commerce is approved, the Federal Government will have authority to go into and regulate any and all businesses, large and small, even to the corner barbershop and bootblack. In my judgment, this is a vital and fundamental defect, and I cannot support the bill.

EDGAR W. Hiestand.

SUPPLEMENTAL VIEWS BY HON. CHARLES E. GOODELL

I favor Federal minimum wage legislation and accordingly voted to report this bill from the full committee. I believe the present bill to be a great improvement over previous minimum wage proposals reported by the House committee. With one basic change, I will give the committee bill my enthusiastic support.

VOLUME SALES AS A TEST OF FEDERAL JURISDICTION

There is one major weakness in the committee bill, which potentially could wipe out State jurisdiction over labor standards. The bill adopts the philosophy that the only thing necessary to justify Federal intervention is that an enterprise do \$1 million of gross business a year. Secretary Goldberg admitted before the committee that every single retail store in this country is, in his opinion, constitutionally subject to Federal jurisdiction. The administration spokesman says that they made the "pragmatic" decision that \$1 million was the best figure to shoot for today. But virtually all advocates of the present legislation have flatly admitted that in 2 or 3 years they will seek a reduction of the \$1 million figure, so that smaller and smaller enterprises are gradually absorbed into Federal jurisdiction. Significantly the early Roosevelt and Kennedy bills set the jurisdictional figure at \$500,000.

I believe the Federal Government should limit its minimum wage activities to those enterprises whose operations clearly cross State lines. The volume of sales of an enterprise is irrelevant to such a standard. I do not want to see the Federal Government moving onto Main Street to tell our shoeshine parlors or locally owned retail establishments what wages they must pay. This is a matter that belongs properly to State and local jurisdictions. The State governments are close enough to the people to take account of the entirely different economic circumstances which exist in their areas as contrasted with other parts of the country.

PRESIDENT KENNEDY'S \$1.15 MINIMUM WAGE PROPOSAL

Although much was heard last year about the need for \$1.25 minimum wage, President Kennedy has now proposed not \$1.25 but \$1.15. Under the Kennedy program there will be no \$1.25 minimum wage for 2½ years. President Eisenhower's proposal of \$1.15 in 1960 was called cruel and heartless by advocates of \$1.25. Today these same advocates are mysteriously muted. Senator Kennedy could have given almost 2 million workers a minimum wage increase to \$1.15 last year, but he refused to compromise. When our subcommittee this year moved to increase the minimum wage to \$1.25 in 1 year rather than 2 years, Secretary of Labor Goldberg urged us to be more conservative in our approach. I quote a portion of the letter which Secretary Goldberg directed to our subcommittee:

During the past several days we in the Department of Labor have given very careful consideration and further study to all of the economic implications of this accelerated program for reaching the highest minimum wage rate a year earlier than originally proposed. In view of the many factors involved and after a realistic appraisal of the entire situation, it is my hope that the Committee on Education and Labor may find it possible to reconsider this decision and restore the original three step approach, as outlined above, or, if considered more desirable, adopt a two step approach, that is, a minimum wage of \$1.15 for 2 years and 4 months after the date of enactment and a minimum wage of \$1.25 thereafter.

It would appear that fast and easy solutions to problems take on an entirely different complexion when the cloak of responsibility falls upon one's shoulders. President Kennedy seemingly won many votes last year in demanding a \$1.25 minimum wage. What he failed to tell the people was that he really favored a \$1.15 minimum wage today, and that they would have to wait 2½ years for the \$1.25.

ADDITIONAL VIEWS OF HON. DAVE MARTIN

This bill to amend the Fair Labor Standards Act of 1938, as amended, is one of the most devious to be introduced in the House for many years. It would establish the principle, heretofore rejected, that the retail merchant is subject to the control of the Federal Government because he is engaged in interstate commerce. This theory I reject as false. The purpose of the bill is to get this concept accepted and to add additional coverage each year until every single retail business in the United States is under the control of the Federal Government.

This bill is not economically sound. One employee may be worth \$5 an hour, and another not be worth \$1. This is dependent on many factors—the inherent ability of the employee, the type of business, the location of the business, the habits of customers, and other circumstances. The cost of living varies greatly throughout the United States. For instance, eggs are 75 cents a dozen in Washington, D.C., but only 40 cents a dozen in my district in Nebraska. Are there those among us who would suggest that eggs should be sold for exactly the same price throughout the country? Are there those among us who would suggest that there should be regulation by the Federal Government of the daily lives of every individual in this great land of ours? I believe that this legislation is a step in this direction.

This bill will result in increasing the inflationary spiral in our country. Secretary of Commerce Hodges testified that the measure would increase costs .4 percent. Secretary of Labor Goldberg, in his debate with Senator Goldwater last week, stated that the minimum wage bill would increase costs .8 percent. Neither denied that it would contribute to additional inflation. According to their testimony, it would increase the cost of living.

Secretary of Commerce Hodges further testified that, although the limits in this bill for retail coverage are placed at \$1 million, we could be sure that in a short time coverage would include businesses doing \$500,000 per year, then \$250,000 per year, and so on. The aim of this bill is to get the concept accepted that retail businesses should be included, and then, eventually, every single retail store in the United States, including the family owned business and the one-man stores.

To the further extension of controls and to the hastening of the end of individual enterprise, I am unalterably opposed. This bill would do just that.

For the above reasons, I cannot support this legislation.

DAVE MARTIN.

Union Calendar No. 39

87TH CONGRESS
1ST SESSION

H. R. 3935

[Report No. 75]

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 1961

Mr. ROOSEVELT introduced the following bill; which was referred to the Committee on Education and Labor

MARCH 13, 1961

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Fair Labor Standards
4 Amendments of 1961".

DEFINITIONS

1
2 SEC. 2. (a) Paragraph (m) of section 3 of such Act,
3 defining the term "wage", is amended by inserting before
4 the period at the end thereof a colon and the following:
5 "*Provided*, That the cost of board, lodging, or other facilities
6 shall not be included as a part of the wage paid to any
7 employee to the extent it is excluded therefrom under the
8 terms of a bona fide collective-bargaining agreement appli-
9 cable to the particular employee: *Provided further*, That
10 the Secretary is authorized to determine the fair value of
11 such board, lodging, or other facilities for defined classes
12 of employees and in defined areas, based on average cost
13 to the employer or to groups of employers similarly situated,
14 or average value to groups of employees, or other appropri-
15 ate measures of fair value. Such evaluations, where appli-
16 cable and pertinent, shall be used in lieu of actual measure of
17 cost in determining the wage paid to any employee".

18 (b) Section 3 of such Act is further amended by adding
19 at the end thereof the following new paragraphs:

20 "(p) 'American vessel' includes any vessel which is
21 documented or numbered under the laws of the United States:

22 "(q) 'Secretary' means the Secretary of Labor.

23 "(r) 'Enterprise' means the related activities performed
24 (either through unified operation or common control) by any
25 person or persons for a common business purpose, and in-

1 eludes all such activities whether performed in one or more
 2 establishments or by one or more corporate or other organiza-
 3 tional units but shall not include the related activities per-
 4 formed for such enterprise by an independent contractor:
 5 *Provided*, That, within the meaning of this subsection, a
 6 locally owned and controlled retail or service establishment
 7 shall not be deemed to be other than a separate and distinct
 8 enterprise by reason of any arrangement, which includes,
 9 but is not limited to, an agreement ~~(1)~~ that it will sell, or
 10 sell only, certain goods specified by a particular manufacturer,
 11 distributor, or advertiser, or ~~(2)~~ that it will join with other
 12 locally owned and controlled concerns in the same industry
 13 for the purpose of collective purchasing, or ~~(3)~~ that it will
 14 have the exclusive right to sell the goods or use the brand
 15 name of a manufacturer, distributor, or advertiser within a
 16 specified area, or by reason of the fact that it occupies
 17 premises leased to it by a person who also leases premises
 18 to other retail or service establishments.

19 “~~(s)~~ ‘Enterprise engaged in commerce or in the produc-
 20 tion of goods for commerce’ means any of the following in
 21 the activities of which one or more employees are so engaged,
 22 including employees handling, selling, or otherwise working
 23 on goods that have been moved in or produced for commerce
 24 by any person:

25 “~~(1)~~ any such enterprise which has one or more

1 retail or service establishments if the annual gross vol-
2 ume of sales of such enterprise is not less than \$1,000,-
3 000, exclusive of excise taxes at the retail level which
4 are separately stated;

5 “(2) any such enterprise which has one or more
6 establishments engaged in laundering, cleaning, or re-
7 pairing clothing or fabrics if the annual gross volume of
8 sales of such enterprise is not less than \$1,000,000, ex-
9 clusive of excise taxes at the retail level which are sepa-
10 rately stated;

11 “(3) any such enterprise which is engaged in the
12 business of operating a street, suburban, or interurban
13 electric railway, or local trolley or motorbus carrier;

14 “(4) any establishment, not included in an enter-
15 prise described in paragraph (1), (2), or (3) of this
16 subsection, if the annual gross volume of sales of such
17 establishment is not less than \$250,000 (or \$350,000
18 in the case of an establishment engaged in the business
19 of construction or reconstruction, or both), exclusive of
20 excise taxes at the retail level which are separately
21 stated;

22 “(5) any gasoline service establishment if the
23 annual gross volume of sales of such establishment is not
24 less than \$250,000;

25 *Provided*, That an establishment shall not be considered to be

1 an enterprise engaged in commerce or in the production of
 2 goods for commerce; or a part of an enterprise engaged in
 3 commerce or in the production of goods for commerce; and
 4 the sales of such establishment shall not be included for the
 5 purpose of determining the annual gross volume of sales of
 6 any enterprise for the purpose of this subsection; if the only
 7 employees of such establishment are the owner thereof or
 8 persons standing in the relationship of parent, spouse, or
 9 child of such owner."

10 SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND
 11 THE VIRGIN ISLANDS

12 SEC. 3. Subsection (a) of section 5 of such Act is
 13 amended by inserting after the words "production of goods
 14 for commerce" wherever they appear, the following: "or
 15 employed in any enterprise engaged in commerce or in the
 16 production of goods for commerce".

17 MINIMUM WAGES

18 SEC. 4. (a) (1) Section 6(a) of such Act is amended
 19 by inserting after the word "who" in the portion thereof pre-
 20 ceding paragraph (1) the words "in any workweek".

21 (2) Paragraph (1) of section 6(a) of such Act is
 22 amended to read as follows:

23 "(1) not less than \$1.15 an hour during the first
 24 year from the effective date of the Fair Labor Standards
 25 Amendments of 1961; not less than \$1.20 an hour

1 during the second year from such date; and not less
2 than \$1.25 an hour thereafter, except as otherwise pro-
3 vided in this section.”

4 ~~(3)~~ The first sentence of paragraph ~~(3)~~ of section
5 ~~6(a)~~ of such Act is amended to read as follows:

6 “~~(3)~~ if such employee is employed in American
7 Samoa, in lieu of the rate or rates provided by this
8 subsection or subsection ~~(b)~~, not less than applica-
9 ble rate established by the Secretary of Labor in ac-
10 cordance with recommendations of a special industry
11 committee or committees which he shall appoint in the
12 same manner and pursuant to the same provisions as
13 are applicable to the special industry committees pro-
14 vided for Puerto Rico and the Virgin Islands by this
15 Act as amended from time to time.”

16 ~~(b)~~ Subsection ~~(b)~~ of section 6 of such Act is amended
17 to read as follows:

18 “~~(b)~~ Every employer shall pay to each of his employees
19 who in any workweek ~~(i)~~ is employed in an enterprise en-
20 gaged in commerce or in the production of goods for com-
21 merce, as defined in section ~~3(s)~~ ~~(1)~~, ~~(2)~~, or ~~(3)~~ or in an
22 establishment described in section ~~3(s)~~ ~~(4)~~ or ~~(5)~~, and
23 who, except for the enactment of the Fair Labor Standards
24 Amendments of 1961, would not be within the purview of
25 this section, or ~~(ii)~~ is brought within the purview of this

1 section by the amendments made to section 13(a) of this
2 Act by the Fair Labor Standards Amendments of 1961,
3 wages at rates—

4 “(1) not less than \$1 an hour during the first year
5 from the effective date of such amendments; not less
6 than \$1.05 an hour during the second year from such
7 date; not less than \$1.15 an hour during the third year
8 from such date; and not less than the rate effective under
9 paragraph (1) of subsection (a) thereafter;

10 “(2) if such employee is employed as a seaman
11 on an American vessel, wages at not less than the rate
12 which will provide to the employee, for the period cov-
13 ered by the wage payment, wages equal to compensa-
14 tion at the hourly rate prescribed by paragraph (1) of
15 this subsection for all hours during such period when
16 he was actually on duty (not including off-duty periods
17 within such period which are provided pursuant to the
18 employment agreement or periods aboard ship when
19 the employee was not on watch and was not, at the
20 direction of a superior officer, either performing other
21 work or standing by).”

22 (e) Subsection (c) of section 6 of such Act is amended
23 to read as follows:

24 “(e) The rate or rates provided by subsections (a) and
25 (b) of this section shall be superseded in the case of any em-

1 ployee in Puerto Rico or the Virgin Islands only for so long
2 as and insofar as such employee is covered by a wage order
3 heretofore or hereafter issued by the Secretary pursuant to
4 the recommendations of a special industry committee ap-
5 pointed pursuant to section 5: *Provided*, That (1) the fol-
6 lowing rates shall apply to any such employee to whom
7 the rate or rates prescribed by subsection (a) would other-
8 wise apply:

9 “(A) The rate or rates applicable under the most re-
10 cent wage order issued by the Secretary prior to the effec-
11 tive date of the Fair Labor Standards Amendments of 1961,
12 increased by 15 per centum, unless such rate or rates are
13 superseded by the rate or rates prescribed in a wage order
14 issued by the Secretary pursuant to the recommendations
15 of a review committee appointed under paragraph (D).
16 Such rate or rates shall become effective sixty days after
17 the effective date of the Fair Labor Standards Amendments
18 of 1961 or one year from the effective date of the most re-
19 cent wage order applicable to such employee theretofore
20 issued by the Secretary pursuant to the recommendations
21 of a special industry committee appointed under section 5,
22 whichever is later.

23 “(B) During the second year after the applicable effec-
24 tive date under paragraph (A), not less than the rate or
25 rates prescribed by paragraph (A), increased by an amount

1 equal to 5 per centum of the rate or rates applicable under
2 the most recent wage order issued by the Secretary prior
3 to the effective date of the Fair Labor Standards Amend-
4 ments of 1961, unless such rate or rates are superseded by
5 the rate or rates prescribed in a wage order issued by the
6 Secretary pursuant to the recommendations of a review
7 committee appointed under paragraph (D).

8 “(C) During the third year after the applicable effec-
9 tive date under paragraph (B), not less than the rate or rates
10 prescribed by paragraph (B), increased by 5 per centum of
11 the rate or rates applicable under the most recent wage order
12 issued by the Secretary prior to the effective date of the
13 Fair Labor Standards Amendments of 1961, unless such
14 rate or rates are superseded by the rate or rates prescribed
15 in a wage order issued by the Secretary pursuant to the
16 recommendations of a review committee appointed under
17 paragraph (D).

18 “(D) Any employer, or group of employers, employ-
19 ing a majority of the employees in an industry in Puerto
20 Rico or the Virgin Islands, may apply to the Secretary in
21 writing for the appointment of a review committee to rec-
22 ommend the minimum rate or rates to be paid such em-
23 ployees in lieu of the rate or rates provided by paragraph
24 (A), (B), or (C). Any such application with respect to

1 any rate or rates provided for under paragraph ~~(A)~~ shall
2 be filed within sixty days following the enactment of the
3 Fair Labor Standards Amendments of 1961 and any such
4 application with respect to any rate or rates provided for
5 under paragraph ~~(B)~~ or ~~(C)~~ shall be filed not more than
6 one hundred and twenty days and not less than sixty days
7 prior to the effective date of the applicable rate or rates under
8 paragraph ~~(B)~~ or ~~(C)~~. The Secretary shall promptly con-
9 sider such application and may appoint a review committee
10 only if he has reasonable cause to believe, on the basis of
11 financial and other information contained in the application,
12 that compliance with any applicable rate or rates prescribed
13 by paragraph ~~(A)~~, ~~(B)~~, or ~~(C)~~ will substantially curtail
14 employment in such industry. The Secretary's decision
15 upon any such application shall be final. Any wage order
16 issued pursuant to the recommendations of a review com-
17 mittee appointed under this paragraph shall take effect on
18 the applicable effective date provided in paragraph ~~(A)~~;
19 ~~(B)~~, or ~~(C)~~.

20 “~~(E)~~ In the event a wage order has not been issued
21 pursuant to the recommendation of a review committee
22 prior to the applicable effective date under paragraph ~~(A)~~;
23 ~~(B)~~, or ~~(C)~~, the applicable percentage increase provided
24 by any such paragraph shall take effect on the effective
25 date prescribed therein, except with respect to the employ-

ees of an employer who filed an application under paragraph
(D) and who files with the Secretary an undertaking with
a surety or sureties satisfactory to the Secretary for payment
to his employees of an amount sufficient to compensate
such employees for the difference between the wages they
actually receive and the wages to which they are entitled
under this subsection. The Secretary shall be empowered
to enforce such undertaking and any sums recovered by him
shall be held in a special deposit account and shall be paid,
on order of the Secretary, directly to the employee or em-
ployees affected. Any such sum not paid to an employee
because of inability to do so within a period of three years
shall be covered into the Treasury of the United States as
miscellaneous receipts.

“(2) In the case of any such employee to whom sub-
section (b) would otherwise apply, the Secretary shall
within sixty days after the enactment of the Fair Labor
Standards Amendments of 1961 appoint a special industry
committee in accordance with section 5 to recommend the
highest minimum wage rate or rates, in accordance with the
standards prescribed by section 8, not in excess of the ap-
plicable rate provided by subsection (b), to be applicable
to such employee in lieu of the rate or rates prescribed by
subsection (b). The rate or rates recommended by the
special industry committee shall be effective with respect to

1 such employee upon the effective date of the wage order
2 issued pursuant to such recommendation but not before sixty
3 days after the effective date of the Fair Labor Standards
4 Amendments of 1961.

5 “(3) The provisions of section 5 and section 8, relating
6 to special industry committees, shall be applicable to review
7 committees appointed under this subsection. The appoint-
8 ment of a review committee shall be in addition to and not
9 in lieu of any special industry committee required to be ap-
10 pointed pursuant to the provisions of subsection (a) of sec-
11 tion 8 except that (i) no special industry committee shall
12 hold any hearing within one year after a minimum wage
13 rate or rates for such industry shall have been recommended
14 to the Secretary by a review committee to be paid in lieu
15 of the rate or rates provided for under paragraph (A) and
16 (ii) where an increase in the minimum wage rate or rates
17 provided for in paragraph (B) or (C) shall have become
18 effective for such industry without an application having been
19 filed under paragraph (D), no special industry committee
20 for such industry shall hold any hearing within one year after
21 such an increase shall have become effective. The minimum
22 wage rate or rates prescribed by this subsection shall be in
23 effect only for so long as and insofar as such minimum wage
24 rate or rates have not been superseded by a wage order fix-
25 ing a higher minimum wage rate or rates (but not in excess

1 of the applicable rate prescribed in subsection (a) or sub-
 2 section (b)) hereafter issued by the Secretary pursuant to
 3 the recommendation of a special industry committee."

4 MAXIMUM HOURS

5 SEC. 5. (a) Subsection (a) of section 7 of such Act
 6 is amended by designating such subsection as subsection
 7 (a)(1), by inserting after the word "who" the words "in
 8 any workweek", and by striking out the period at the end
 9 thereof and inserting a semicolon and the word "and" in lieu
 10 thereof and adding the following new paragraph (2):

11 "(2) No employer shall employ any of his employees
 12 who in any workweek (i) is employed in an enterprise
 13 engaged in commerce or in the production of goods for
 14 commerce, as defined in section 3(s) (1), (2), or (3),
 15 or in an establishment described in section 3(s) (4), and
 16 who, except for the enactment of the Fair Labor Standards
 17 Amendments of 1961, would not be within the purview of
 18 this subsection, or (ii) is brought within the purview of this
 19 subsection by the amendments made to section 13 of this Act
 20 by the Fair Labor Standards Amendments of 1961—

21 "(A) for a workweek longer than forty-four hours
 22 during the second year from the effective date of the
 23 Fair Labor Standards Amendments of 1961,

24 "(B) for a workweek longer than forty-two hours
 25 during the third year from such date,

1 “~~(C)~~ for a workweek longer than forty hours after
2 the expiration of the third year from such date,
3 unless such employee receives compensation for his employ-
4 ment in excess of the hours above specified at a rate not less
5 than one and one-half times the regular rate at which he is
6 employed.”

7 ~~(b)(1)~~ Subsection ~~(b)~~ of section 7 of such Act is
8 amended by striking out “in excess of forty hours in the
9 workweek” in paragraph ~~(2)~~ and inserting in lieu thereof
10 the following: “in excess of the maximum workweek appli-
11 cable to such employee under subsection ~~(a)~~”.

12 ~~(2)~~ Such subsection is further amended by striking out
13 clause ~~(3)~~ thereof and the portion of such subsection which
14 follows clause ~~(3)~~ and inserting in lieu thereof the fol-
15 lowing:

16 “~~(3)~~ for a period or periods of not more than four-
17 teen workweeks in the aggregate in any calendar year
18 ~~(i)~~ in an industry found by the Secretary of Labor to be
19 of a seasonal nature; or ~~(ii)~~ in an industry engaged in
20 the first processing of, or in canning or packing perish-
21 able or seasonal fresh fruits or vegetables, or in the first
22 processing, within the area of production (as defined by
23 the Secretary), of any agricultural or horticultural com-
24 modity during seasonal operations, or in handling,

1 slaughtering, or dressing poultry or livestock: *Provided,*
 2 That in any industry to which both clauses (i) and (ii)
 3 apply, such period shall not exceed ten workweeks in the
 4 aggregate in any calendar year,
 5 and if such employee receives compensation for employ-
 6 ment in excess of twelve hours in any workday, or for em-
 7 ployment in excess of fifty-six hours in any workweek, as the
 8 case may be, at a rate not less than one and one-half times
 9 the regular rate at which he is employed. In the case of any
 10 employee employed in an industry to which both (i) and
 11 (ii) of clause (3) apply, the provisions of subsection (a)
 12 shall not apply during a period or periods of not more than
 13 ten workweeks in the aggregate in any calendar year, which
 14 shall be in addition to the period or periods provided with
 15 respect to such employee in clause (3).”

16 (c) Subsection (e) of section 7 of such Act is amended
 17 by striking out everything therein after the semicolon and
 18 inserting in lieu of the semicolon a period.

19 (d) Paragraph (5) of subsection (d) of section 7 of
 20 such Act is amended by striking out “forty in a workweek”
 21 and inserting in lieu thereof the following: “in excess of the
 22 maximum workweek applicable to such employee under
 23 subsection (a).”

24 (e) Paragraph (7) of subsection (d) of section 7 of

1 such Act is amended by striking out "forty hours" and in-
 2 serting in lieu thereof the following: "the maximum work-
 3 week applicable to such employee under subsection (a)".

4 ~~(f)~~ Subsection ~~(e)~~ of section 7 of such Act is amended
 5 ~~(1)~~ by striking out "forty hours" and inserting in lieu
 6 thereof "the maximum workweek applicable to such em-
 7 ployee under subsection (a)", ~~(2)~~ by striking out "section
 8 6(a)" and inserting in lieu thereof "subsection (a) or (b)
 9 of section 6 (whichever may be applicable)", and ~~(3)~~ by
 10 striking out "forty in any" and inserting in lieu thereof
 11 "such maximum".

12 ~~(g)~~ Subsection ~~(f)~~ of section 7 of such Act is amended
 13 by striking out "forty hours" both times it appears therein
 14 and inserting in lieu thereof the following: "the maximum
 15 workweek applicable to such employee under such subsec-
 16 tion".

17 WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

18 SEC. 6. Subsection ~~(a)~~ of section 8 of such Act is
 19 amended by inserting after the word "industries" where it
 20 appears in the first sentence the words "or enterprise"; and
 21 by inserting after the words "production of goods for com-
 22 merce" where they appear in the second sentence the follow-
 23 ing: "or in any enterprise engaged in commerce or in the
 24 production of goods for commerce".

CHILD LABOR PROVISIONS

SEC. 7. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "or in any enterprise engaged in commerce or in the production of goods for commerce."

EXEMPTIONS

SEC. 8. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

"(a) The provisions of sections 6 and 7 shall not apply with respect to—

"(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act); or

"(2) any employee employed by any retail or service establishment (except an establishment, other than a hotel, motel, or restaurant, in an enterprise described in section 3(s)(1) or an establishment described in section 3(s)(5)), more than 50 per centum of which establishment's annual dollar volume of sales of goods

or services is made within the State in which the establishment is located. A "retail or service establishment" shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

~~"(3) any employee employed by any establishment (except an establishment in an enterprise described in section 3(s)(2)) engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment's annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, or communications business: *Provided further*, That this exemption shall not apply to any employee of any such establishment which has an annual dollar volume of sales of such services of \$250,000 or more and which is engaged in substantial competition in the same metropolitan area with an establishment less than 50 per centum of whose annual dollar volume of sales of such services is made within the State in which it is located; or~~

~~"(4) any employee employed by an establishment~~

1 which qualifies as an exempt retail establishment under
2 clause (2) of this subsection and is recognized as a re-
3 tail establishment in the particular industry notwith-
4 standing that such establishment makes or processes at
5 the retail establishment the goods that it sells: *Provided,*
6 That more than 85 per centum of such establishment's
7 annual dollar volume of sales of goods so made or proc-
8 essed is made within the State in which the establish-
9 ment is located; or

10 “(5) any employee employed in the catching, tak-
11 ing, propagating, harvesting, cultivating, or farming
12 of any kind of fish, shellfish, crustacea, sponges, sea-
13 weeds, or other aquatic forms of animal and vegetable
14 life, or in the first processing, canning or packing such
15 marine products at sea as an incident to, or in conjunc-
16 tion with, such fishing operations, including the going to
17 and returning from work and loading and unloading
18 when performed by any such employee; or

19 “(6) any employee employed in agriculture or in
20 connection with the operation or maintenance of ditches,
21 canals, reservoirs, or waterways, not owned or operated
22 for profit or operated on a share-crop basis, and which
23 are used exclusively for supply and storing of water for
24 agricultural purposes; or

25 “(7) any employee to the extent that such em-

1 ployee is exempted by regulations or orders of the Sec-
2 retary issued under section 14; or

3 “(8) any employee employed in connection with
4 the publication of any weekly, semiweekly, or daily
5 newspaper with a circulation of less than four thousand
6 the major part of which circulation is within the county
7 where printed and published or counties contiguous
8 thereto; or

9 “(9) any employee employed in a motion picture
10 theater; or

11 “(10) any individual employed within the area of
12 production (as defined by the Secretary); engaged in
13 handling, packing, storing, ginning, compressing, pas-
14 teurizing, drying, preparing in their raw or natural
15 state, or canning of agricultural or horticultural com-
16 modities for market, or in making cheese or butter or
17 other dairy products; or

18 “(11) any switchboard operator employed by an
19 independently owned public telephone exchange which
20 has not more than seven hundred and fifty stations; or

21 “(12) any employee of an employer engaged in
22 the business of operating taxicabs; or

23 “(13) any employee or proprietor in a retail or
24 service establishment which qualifies as an exempt re-
25 tail or service establishment under clause (2) of this

subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply; engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

“(14) any employee employed as a seaman on a vessel other than an American vessel; or

“(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve.

“(b) the provisions of section 7 shall not apply with respect to—

“(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

“(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

1 ~~“(3) any employee of a carrier by air subject to~~
 2 the provisions of title II of the Railway Labor Act;
 3 or

4 ~~“(4) any employee employed in the canning, pro-~~
 5 cessing, marketing, freezing, curing, storing, packing
 6 for shipment, or distributing of any kind of fish, shell-
 7 fish, or other aquatic forms of animal or vegetable life,
 8 or any byproduct thereof; or

9 ~~“(5) any individual employed as an outside buyer~~
 10 of poultry, eggs, cream, or milk, in their raw or natural
 11 state; or

12 ~~“(6) any employee employed as a seaman; or~~

13 ~~“(7) any employee of a street, suburban, or inter-~~
 14 urban electric railway, or local trolley or motorbus
 15 carrier, not included in other exemptions contained in
 16 this section; or

17 ~~“(8) any employee employed as an automobile~~
 18 salesman by a retail or service establishment engaged in
 19 the business of selling automobiles or trucks; or

20 ~~“(9) any employee of a gasoline service station.~~

21 PENALTIES AND INJUNCTION PROCEEDINGS

22 SEC. 9. (a) Section 16(b) of such Act is amended by
 23 adding at the end thereof a new sentence as follows: “The
 24 right provided by this subsection to bring an action by or

1 on behalf of any employee; and the right of any employee
2 to become a party plaintiff to any such action, shall termi-
3 nate upon the filing of a complaint by the Secretary of Labor
4 in an action under section 17 in which restraint is sought
5 of any further delay in the payment of unpaid minimum
6 wages, or the amount of unpaid overtime compensation, as
7 the case may be, owing to such employee under section 6
8 or section 7 of this Act by an employer liable therefor
9 under the provisions of this subsection.”

10 (b) Section 17 of such Act is amended to read as
11 follows:

12 “INJUNCTION PROCEEDINGS

13 “SEC. 17. The district courts, together with the United
14 States District Court for the District of the Canal Zone, the
15 District Court of the Virgin Islands, and the District Court
16 of Guam shall have jurisdiction, for cause shown, to re-
17 strain violations of section 15, including in the case of viola-
18 tions of section 15(a)-(2) the restraint of any withholding
19 of payment of minimum wages or overtime compensation
20 found by the court to be due to employees under this Act
21 (except sums which employees are barred from recovering,
22 at the time of the commencement of the action to restrain
23 the violations, by virtue of the provisions of section 6 of the
24 Portal-to-Portal Act of 1947).”

EFFECTIVE DATE

SEC. 10. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act.

That this Act may be cited as the "Fair Labor Standards Amendments of 1961".

DEFINITIONS

SEC. 2. (a) Paragraph (f) of section 3 of the Fair Labor Standards Act of 1938 is amended by inserting after "Agricultural Marketing Act, as amended)," the following: "the processing of shade-grown tobacco for use as cigar wrapper tobacco by agricultural employees employed in the growing and harvesting of such tobacco, which processing shall include, but shall not be limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling, prior to the stemming process,".

(b) Paragraph (m) of section 3 of such Act, defining the term "wage", is amended by inserting before the period

1 at the end thereof a colon and the following: "Provided,
2 That the cost of board, lodging, or other facilities shall not
3 be included as a part of the wage paid to any employee to
4 the extent it is excluded therefrom under the terms of a
5 bona fide collective-bargaining agreement applicable to the
6 particular employee: Provided further, That the Secretary
7 is authorized to determine the fair value of such board, lodg-
8 ing, or other facilities for defined classes of employees and
9 in defined areas, based on average cost to the employer or to
10 groups of employers similarly situated, or average value to
11 groups of employees, or other appropriate measures of fair
12 value. Such evaluations, where applicable and pertinent,
13 shall be used in lieu of actual measure of cost in determining
14 the wage paid to any employee".

15 (c) Section 3 of such Act is further amended by adding
16 at the end thereof the following new paragraphs:

17 "(p) 'American vessel' includes any vessel which is
18 documented or numbered under the laws of the United States.

19 "(q) 'Secretary' means the Secretary of Labor.

20 "(r) 'Enterprise' means the related activities performed
21 (either through unified operation or common control) by any
22 person or persons for a common business purpose, and in-
23 cludes all such activities whether performed in one or more

1 establishments or by one or more corporate or other organiza-
 2 tional units but shall not include the related activities per-
 3 formed for such enterprise by an independent contractor:
 4 Provided, That, within the meaning of this subsection, a
 5 local retail or service establishment which is under independ-
 6 ent ownership and control shall not be deemed to be other
 7 than a separate and distinct enterprise by reason of any ar-
 8 rangement, which includes, but is not limited to, an agree-
 9 ment (1) that it will sell, or sell only, certain goods specified
 10 by a particular manufacturer, distributor, or advertiser, or
 11 (2) that it will join with other such local establishments in
 12 the same industry for the purpose of collective purchasing,
 13 or (3) that it will have the exclusive right to sell the goods
 14 or use the brand name of a manufacturer, distributor, or ad-
 15 vertiser within a specified area, or by reason of the fact that
 16 it occupies premises leased to it by a person who also leases
 17 premises to other retail or service establishments.

18 “(s) ‘Enterprise engaged in commerce or in the produc-
 19 tion of goods for commerce’ means any of the following in
 20 the activities of which one or more employees are so engaged,
 21 including employees handling, selling, or otherwise working
 22 on goods that have been moved in or produced for commerce
 23 by any person:

24 “(1) any such enterprise which has one or more
 25 retail or service establishments if the annual gross vol-

ume of sales of such enterprise is not less than \$1,000,-
000, exclusive of excise taxes at the retail level which are
separately stated;

“(2) any such enterprise which has one or more
establishments engaged in laundering, cleaning, or re-
pairing clothing or fabrics if the annual gross volume of
sales of such enterprise is not less than \$1,000,000, ex-
clusive of excise taxes at the retail level which are sepa-
rately stated;

“(3) any such enterprise which is engaged in the
business of operating a street, suburban or interurban
electric railway, or local trolley or motorbus carrier if
the annual gross volume of sales of such enterprise is
not less than \$1,000,000, exclusive of excise taxes at
the retail level which are separately stated;

“(4) any establishment of any such enterprise,
except establishments and enterprises referred to in
other paragraphs of this subsection, which has em-
ployees engaged in commerce or in the production of
goods for commerce if the annual gross volume of sales
of such enterprise is not less than \$1,000,000;

“(5) any such enterprise which is engaged in the
business of construction or reconstruction, or both, if the
annual gross volume from the business of such enter-
prise is not less than \$350,000:

1 *Provided, That an establishment shall not be considered to be*
 2 *an enterprise engaged in commerce or in the production of*
 3 *goods for commerce, or a part of an enterprise engaged in*
 4 *commerce or in the production of goods for commerce, and*
 5 *the sales of such establishment shall not be included for the*
 6 *purpose of determining the annual gross volume of sales of*
 7 *any enterprise for the purpose of this subsection, if the only*
 8 *employees of such establishment are the owner thereof or*
 9 *persons standing in the relationship of parent, spouse, or*
 10 *child of such owner."*

11 *INVESTIGATIONS OF EFFECTS ON EMPLOYMENT OF*
 12 *FOREIGN COMPETITION*

13 *SEC. 3. Section 4 of such Act is amended by adding at*
 14 *the end thereof the following new subsection:*

15 *"(e) Whenever the Secretary has reason to believe that*
 16 *in any industry under this Act the competition of foreign*
 17 *producers in United States markets or in markets abroad, or*
 18 *both, has resulted, or is likely to result, in increased unem-*
 19 *ployment in the United States, he shall undertake an in-*
 20 *vestigation to gain full information with respect to the matter.*
 21 *If he determines such increased unemployment has in fact*
 22 *resulted, or is in fact likely to result, from such competition,*
 23 *he shall make a full and complete report of his findings and*
 24 *determinations to the President and to the Congress."*

*SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND
THE VIRGIN ISLANDS*

SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting after the words "production of goods for commerce" wherever they appear, the following: "or employed in any enterprise engaged in commerce or in the production of goods for commerce".

MINIMUM WAGES

SEC. 5. (a) (1) Section 6(a) of such Act is amended by inserting after the word "who" in the portion thereof preceding paragraph (1), the words "in any workweek".

(2) Paragraph (1) of section 6(a) of such Act is amended to read as follows:

"(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section."

(3) The first sentence of paragraph (3) of section 6(a) of such Act is amended to read as follows:

"(3) if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in ac-

1 cordance with recommendations of a special industry
2 committee or committees which he shall appoint in the
3 same manner and pursuant to the same provisions as
4 are applicable to the special industry committees pro-
5 vided for Puerto Rico and the Virgin Islands by this
6 Act as amended from time to time.”

7 (b) Subsection (b) of section 6 of such Act is amended
8 to read as follows:

9 “(b) Every employer shall pay to each of his employees
10 who in any workweek (i) is employed in an enterprise en-
11 gaged in commerce or in the production of goods for com-
12 merce, as defined in section 3(s) (1), (2), (3), or
13 (5) or by an establishment described in section 3(s)(4),
14 and who, except for the enactment of the Fair Labor
15 Standards Amendments of 1961, would not be within the
16 purview of this section, or (ii) is brought within the purview
17 of this section by the amendments made to section 13(a) of
18 this Act by the Fair Labor Standards Amendments of 1961,
19 wages at rates—

20 “(1) not less than \$1 an hour during the first year
21 from the effective date of such amendments; not less
22 than \$1.05 an hour during the second year from such
23 date; not less than \$1.15 an hour during the third year
24 from such date; and not less than the rate effective under
25 paragraph (1) of subsection (a) thereafter;

1 “(2) if such employee is employed as a seaman
2 on an American vessel, wages at not less than the rate
3 which will provide to the employee, for the period cov-
4 ered by the wage payment, wages equal to compensa-
5 tion at the hourly rate prescribed by paragraph (1) of
6 this subsection for all hours during such period when
7 he was actually on duty (including periods aboard ship
8 when the employee was on watch or was, at the direc-
9 tion of a superior officer, performing work or standing
10 by, but not including off-duty periods which are pro-
11 vided pursuant to the employment agreement).”

12 (c) Subsection (c) of section 6 of such Act is amended
13 to read as follows:

14 “(c) The rate or rates provided by subsections (a)
15 and (b) of this section shall be superseded in the case of
16 any employee in Puerto Rico or the Virgin Islands only
17 for so long as and insofar as such employee is covered by
18 a wage order heretofore or hereafter issued by the Secretary
19 pursuant to the recommendations of a special industry com-
20 mittee appointed pursuant to section 5: Provided, That (1)
21 the following rates shall apply to any such employee to whom
22 the rate or rates prescribed by subsection (a) would other-
23 wise apply:

24 “(A) The rate or rates applicable under the most re-
25 cent wage order issued by the Secretary prior to the effec-

1 *tive date of the Fair Labor Standards Amendments of 1961,*
2 *increased by 15 per centum, unless such rate or rates are*
3 *superseded by the rate or rates prescribed in a wage order*
4 *issued by the Secretary pursuant to the recommendations of*
5 *a review committee appointed under paragraph (C). Such*
6 *rate or rates shall become effective sixty days after the effec-*
7 *tive date of the Fair Labor Standards Amendments of 1961*
8 *or one year from the effective date of the most recent wage*
9 *order applicable to such employee theretofore issued by the*
10 *Secretary pursuant to the recommendations of a special in-*
11 *dustry committee appointed under section 5, whichever is*
12 *later.*

13 *“(B) Beginning two years after the applicable effec-*
14 *tive date under paragraph (A), not less than the rate or*
15 *rates prescribed by paragraph (A), increased by an amount*
16 *equal to 10 per centum of the rate or rates applicable under*
17 *the most recent wage order issued by the Secretary prior*
18 *to the effective date of the Fair Labor Standards Amend-*
19 *ments of 1961, unless such rate or rates are superseded by*
20 *the rate or rates prescribed in a wage order issued by the*
21 *Secretary pursuant to the recommendations of a review com-*
22 *mittee appointed under paragraph (C).*

23 *“(C) Any employer, or group of employers, employ-*
24 *ing a majority of the employees in an industry in Puerto*
25 *Rico or the Virgin Islands, may apply to the Secretary in*

1 writing for the appointment of a review committee to
2 recommend the minimum rate or rates to be paid such em-
3 ployees in lieu of the rate or rates provided by paragraph
4 (A) or (B). Any such application with respect to any
5 rate or rates provided for under paragraph (A) shall be
6 filed within sixty days following the enactment of the Fair
7 Labor Standards Amendments of 1961 and any such ap-
8 plication with respect to any rate or rates provided for
9 under paragraph (B) shall be filed not more than one
10 hundred and twenty days and not less than sixty days prior
11 to the effective date of the applicable rate or rates under
12 paragraph (B). The Secretary shall promptly consider
13 such application and may appoint a review committee
14 if he has reasonable cause to believe, on the basis of financial
15 and other information contained in the application, that
16 compliance with any applicable rate or rates prescribed by
17 paragraph (A) or (B) will substantially curtail employ-
18 ment in such industry. The Secretary's decision upon any
19 such application shall be final. Any wage order issued pur-
20 suant to the recommendations of a review committee ap-
21 pointed under this paragraph shall take effect on the ap-
22 plicable effective date provided in paragraph (A) or (B).

23 “(D) In the event a wage order has not been issued
24 pursuant to the recommendation of a review committee prior
25 to the applicable effective date under paragraph (A) or

1 (B), the applicable percentage increase provided by any
2 such paragraph shall take effect on the effective date pre-
3 scribed therein, except with respect to the employees of an
4 employer who filed an application under paragraph (C)
5 and who files with the Secretary an undertaking with a
6 surety or sureties satisfactory to the Secretary for payment to
7 his employees of an amount sufficient to compensate such em-
8 ployees for the difference between the wages they actually
9 receive and the wages to which they are entitled under this
10 subsection. The Secretary shall be empowered to enforce
11 such undertaking and any sums recovered by him shall be
12 held in a special deposit account and shall be paid, on order
13 of the Secretary, directly to the employee or employees af-
14 fected. Any such sum not paid to an employee because of
15 inability to do so within a period of three years shall be cov-
16 ered into the Treasury of the United States as miscellaneous
17 receipts.

18 “(2) In the case of any such employee to whom subsec-
19 tion (b) would otherwise apply, the Secretary shall within
20 sixty days after the enactment of the Fair Labor Standards
21 Amendments of 1961 appoint a special industry committee
22 in accordance with section 5 to recommend the highest mini-
23 mum wage rate or rates, in accordance with the standards
24 prescribed by section 8, not in excess of the applicable rate

1 provided by subsection (b), to be applicable to such em-
2 ployee in lieu of the rate or rates prescribed by subsection
3 (b). The rate or rates recommended by the special industry
4 committee shall be effective with respect to such employee
5 upon the effective date of the wage order issued pursuant to
6 such recommendation but not before sixty days after the ef-
7 fective date of the Fair Labor Standards Amendments of
8 1961.

9 “(3) The provisions of section 5 and section 8, relating
10 to special industry committees, shall be applicable to review
11 committees appointed under this subsection. The appoint-
12 ment of a review committee shall be in addition to and not
13 in lieu of any special industry committee required to be
14 appointed pursuant to the provisions of subsection (a) of
15 section 8, except that no special industry committee shall
16 hold any hearing within one year after a minimum wage
17 rate or rates for such industry shall have been recommended
18 to the Secretary by a review committee to be paid in lieu
19 of the rate or rates provided for under paragraph (A) or
20 (B). The minimum wage rate or rates prescribed by this
21 subsection shall be in effect only for so long as and insofar as
22 such minimum wage rate or rates have not been superseded
23 by a wage order fixing a higher minimum wage rate or rates
24 (but not in excess of the applicable rate prescribed in sub-

1 section (a) or subsection (b)) hereafter issued by the
 2 Secretary pursuant to the recommendation of a special in-
 3 dustry committee.”

4 MAXIMUM HOURS

5 SEC. 6. (a) Subsection (a) of section 7 of such Act
 6 is amended by designating such subsection as subsection
 7 (a)(1), by inserting after the word “who” the words “in
 8 any workweek”, and by striking out the period at the end
 9 thereof and inserting a semicolon and the word “and” in lieu
 10 thereof and adding the following new paragraph (2):

11 “(2) No employer shall employ any of his employees
 12 who in any workweek (i) is employed in an enterprise
 13 engaged in commerce or in the production of goods for
 14 commerce, as defined in section 3(s) (1), (2), (3), or
 15 (5) or by an establishment described in section 3(s)(4),
 16 and who, except for the enactment of the Fair Labor Stand-
 17 ards Amendments of 1961, would not be within the purview
 18 of this subsection, or (ii) is brought within the purview of
 19 this subsection by the amendments made to section 13 of
 20 this Act by the Fair Labor Standards Amendments of
 21 1961—

22 “(A) for a workweek longer than forty-four hours
 23 during the second year from the effective date of the
 24 Fair Labor Standards Amendments of 1961,

1 “(B) for a workweek longer than forty-two hours
2 during the third year from such date,

3 “(C) for a workweek longer than forty hours after
4 the expiration of the third year from such date,
5 unless such employee receives compensation for his employ-
6 ment in excess of the hours above specified at a rate not less
7 than one and one-half times the regular rate at which he is
8 employed.”

9 (b)(1) Subsection (b) of section 7 of such Act is
10 amended by striking out “in excess of forty hours in the
11 workweek” in paragraph (2) and inserting in lieu thereof
12 the following: “in excess of the maximum workweek appli-
13 cable to such employee under subsection (a)”.

14 (2) Such subsection is further amended by striking out
15 clause (3) thereof and the portion of such subsection which
16 follows clause (3) and inserting in lieu thereof the fol-
17 lowing:

18 “(3) for a period or periods of not more than four-
19 teen workweeks in the aggregate in any calendar year

20 (i) in an industry found by the Secretary to be of a
21 seasonal nature, or (ii) in the case of an employer and
22 his employees in any place of employment where he is
23 engaged in the first processing of, or in canning or
24 packing, perishable or seasonal fresh fruits or vegetables,

1 or in the first processing, within the area of production
2 (as defined by the Secretary), of any agricultural or
3 horticultural commodity during seasonal operations, or
4 in handling, slaughtering, or dressing poultry or live-
5 stock: Provided, That for any employee to whom both
6 clauses (i) and (ii) apply, such period or periods shall
7 not exceed twelve workweeks in the aggregate in any
8 calendar year,
9 and if such employee receives compensation for employment
10 in excess of twelve hours in any workday, or for employ-
11 ment in excess of fifty-six hours in any workweek, as the case
12 may be, at a rate not less than one and one-half times the
13 regular rate at which he is employed. In the case of any
14 employee to whom both (i) and (ii) of clause (3) apply,
15 the provisions of subsection (a) shall not apply during a
16 period or periods of not more than twelve workweeks in the
17 aggregate in any calendar year, which shall be in addition
18 to the period or periods provided with respect to such em-
19 ployee in clause (3).”

20 (c) Subsection (c) of section 7 of such Act is amended
21 by striking out everything therein after the semicolon and
22 inserting in lieu of the semicolon a period.

23 (d) Paragraph (5) of subsection (d) of section 7 of
24 such Act is amended by striking out “forty in a workweek”
25 and inserting in lieu thereof the following: “in excess of the

1 *maximum workweek applicable to such employee under*
2 *subsection (a)''.*

3 *(e) Paragraph (7) of subsection (d) of section 7 of*
4 *such Act is amended by striking out "forty hours" and in-*
5 *serting in lieu thereof the following: "the maximum work-*
6 *week applicable to such employee under subsection (a)''.*

7 *(f) Subsection (e) of section 7 of such Act is amended*
8 *(1) by strikng out "forty hours" and inserting in lieu*
9 *thereof "the maximum workweek applicable to such em-*
10 *ployee under subsection (a)'', (2) by striking out "section*
11 *6(a)" and inserting in lieu thereof "subsection (a) or (b)*
12 *of section 6 (whichever may be applicable)',' and (3) by*
13 *striking out "forty in any" and inserting in lieu thereof*
14 *"such maximum".*

15 *(g) Subsection (f) of section 7 of such Act is amended*
16 *by striking out "forty hours" both times it appears therein*
17 *and inserting in lieu thereof the following: "the maximum*
18 *workweek applicable to such employee under such subsec-*
19 *tion".*

20 *(h) Section 7 of such Act is amended by adding at the*
21 *end thereof the following new subsection:*

22 *"(h) No employer shall be deemed to have violated*
23 *subsection (a) by employing any employee of a retail or*
24 *service establishment for a workweek in excess of the ap-*
25 *plicable workweek specified therein, if (1) the regular rate*

1 of pay of such employee is in excess of one and one-half times
2 the minimum hourly rate applicable to him under section
3 6, and (2) more than half his compensation for a repre-
4 sentative period (not less than one month) represents com-
5 missions on goods or services.”

6 WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

7 SEC. 7. Subsection (a) of section 8 of such Act is
8 amended by inserting after the word “industries” where it
9 appears in the first sentence the words “or enterprise”; and
10 by inserting after the words “production of goods for com-
11 merce” where they appear in the second sentence the follow-
12 ing: “or in any enterprise engaged in commerce or in the
13 production of goods for commerce”.

14 LIMITATIONS ON REPORTS REQUIREMENTS

15 SEC. 8. Section 11(c) of such Act is amended by
16 adding at the end thereof the following new sentence: “If
17 an employer has filed with the Secretary a written assur-
18 ance (in such form as the Secretary shall prescribe) that
19 he is complying with the provisions of this Act, the Secre-
20 tary shall not require such employer to make any other
21 written report to him pursuant to this subsection unless he
22 has reason to believe, on the basis of complaints made to
23 him or on the basis of other information he considers reli-
24 able, that such employer has violated or is violating this
25 Act.”

CHILD LABOR PROVISIONS

SEC. 9. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "or in any enterprise engaged in commerce or in the production of goods for commerce."

EXEMPTIONS

SEC. 10. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

"(a) The provisions of sections 6 and 7 shall not apply with respect to—

"(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

1 “(2) any employee employed by any retail or
2 service establishment, more than 50 per centum of which
3 establishment’s annual dollar volume of sales of goods
4 or services is made within the State in which the estab-
5 lishment is located, if such establishment—

6 “(i) is not in an enterprise described in sec-
7 tion 3(s)(1), or

8 “(ii) is in such an enterprise and is a hotel,
9 motel, restaurant, or hospital, or

10 “(iii) is in such an enterprise which has not
11 more than fifteen such establishments, if the estab-
12 lishment has an annual dollar volume of sales (ex-
13 clusive of excise taxes at the retail level which
14 are separately stated) which is less than \$250,000
15 (or, in the case of a retail gasoline service estab-
16 lishment, \$1,000,000).

17 A ‘retail or service establishment’ shall mean an estab-
18 lishment 75 per centum of whose annual dollar volume
19 of sales of goods or services (or of both) is not for
20 resale and is recognized as retail sales or services in
21 the particular industry; or

22 “(3) any employee employed by any establishment
23 (except an establishment in an enterprise described in
24 section 3(s)(2)) engaged in laundering, cleaning, or
25 repairing clothing or fabrics, more than 50 per centum

1 of which establishment's annual dollar volume of sales
2 of such services is made within the State in which the
3 establishment is located: Provided, That 75 per centum
4 of such establishment's annual dollar volume of sales of
5 such services is made to customers who are not engaged
6 in a mining, manufacturing, transportation, commercial,
7 or communications business: Provided further, That
8 neither the exemption in this paragraph nor in paragraph
9 (2) shall apply to any employee of a hotel, motel, or
10 restaurant who is engaged in laundering, cleaning, or
11 repairing clothing or fabrics where such services are not
12 performed exclusively for such hotel, motel, or restau-
13 rant: Provided further, That this exemption shall not
14 apply to any employee of any such establishment which
15 has an annual dollar volume of sales of such services
16 of \$250,000 or more and which is engaged in substantial
17 competition in the same metropolitan area with an estab-
18 lishment less than 50 per centum of whose annual dollar
19 volume of sales of such services is made within the State
20 in which it is located; or

21 “(4) any employee employed by an establishment
22 which qualifies as an exempt retail establishment under
23 clause (2) of this subsection and is recognized as a re-
24 tail establishment in the particular industry notwith-
25 standing that such establishment makes or processes at

1 *the retail establishment the goods that it sells: Provided,*
2 *That more than 85 per centum of such establishment's*
3 *annual dollar volume of sales of goods so made or proc-*
4 *essed is made within the State in which the establish-*
5 *ment is located; or*

6 *“(5) any employee employed in the catching, tak-*
7 *ing, propagating, harvesting, cultivating, or farming*
8 *of any kind of fish, shellfish, crustacea, sponges, sea-*
9 *weeds, or other aquatic forms of animal and vegetable*
10 *life, or in the first processing, canning or packing such*
11 *marine products at sea as an incident to, or in conjunc-*
12 *tion with, such fishing operations, including the going to*
13 *and returning from work and loading and unloading*
14 *when performed by any such employee; or*

15 *“(6) any employee employed in agriculture or in*
16 *connection with the operation or maintenance of ditches,*
17 *canals, reservoirs, or waterways, not owned or operated*
18 *for profit or operated on a share-crop basis, and which*
19 *are used exclusively for supply and storing of water for*
20 *agricultural purposes; or*

21 *“(7) any employee to the extent that such em-*
22 *ployee is exempted by regulations or orders of the Sec-*
23 *retary issued under section 14; or*

24 *“(8) any employee employed in connection with*
25 *the publication of any weekly, semiweekly, or daily*

1 newspaper with a circulation of less than four thousand
2 the major part of which circulation is within the county
3 where printed and published or counties contiguous
4 thereto; or

5 “(9) any employee employed by a motion picture
6 theater; or

7 “(10) any individual employed within the area of
8 production (as defined by the Secretary), engaged in
9 handling, packing, storing, ginning, compressing, pas-
10 teurizing, drying, preparing in their raw or natural
11 state, or canning of agricultural or horticultural com-
12 modities for market, or in making cheese or butter or
13 other dairy products; or

14 “(11) any switchboard operator employed by an
15 independently owned public telephone company which
16 has not more than seven hundred and fifty stations; or

17 “(12) any employee of an employer engaged in
18 the business of operating taxicabs; or

19 “(13) any employee or proprietor in a retail or
20 service establishment which qualifies as an exempt re-
21 tail or service establishment under clause (2) of this
22 subsection with respect to whom the provisions of sec-
23 tions 6 and 7 would not otherwise apply, engaged in
24 handling telegraphic messages for the public under an
25 agency or contract arrangement with a telegraph com-

1 *pany where the telegraph message revenue of such*
2 *agency does not exceed \$500 a month; or*

3 *“(14) any employee employed as a seaman on a*
4 *vessel other than an American vessel; or*

5 *“(15) any employee employed in planting or tend-*
6 *ing trees, cruising, surveying, or felling timber, or in*
7 *preparing or transporting logs or other forestry products*
8 *to the mill, processing plant, railroad, or other trans-*
9 *portation terminal, if the number of employees employed*
10 *by his employer in such forestry or lumbering opera-*
11 *tions does not exceed twelve; or*

12 *“(16) any employee of an establishment primarily*
13 *engaged in the preparation or offering of food for human*
14 *consumption who is employed in connection with the*
15 *preparation or offering of food or beverages for human*
16 *consumption by such services as catering, banquet, box*
17 *lunch, or curb or counter service, to the public, to em-*
18 *ployees, or to members or guests of members of clubs; or*

19 *“(17) any employee employed in an amusement*
20 *or recreational establishment that operates on a sea-*
21 *sonal basis.*

22 *“(b) The provisions of section 7 shall not apply with*
23 *respect to—*

24 *“(1) any employee with respect to whom the In-*
25 *terstate Commerce Commission has power to establish*

1 *qualifications and maximum hours of service pursuant*
2 *to the provisions of section 204 of the Motor Carrier*
3 *Act, 1935; or*

4 “(2) *any employee of an employer subject to the*
5 *provisions of part I of the Interstate Commerce Act; or*

6 “(3) *any employee of a carrier by air subject to*
7 *the provisions of title II of the Railway Labor Act;*
8 *or*

9 “(4) *any employee employed in the canning, proc-*
10 *essing, marketing, freezing, curing, storing, packing*
11 *for shipment, or distributing of any kind of fish, shell-*
12 *fish, or other aquatic forms of animal or vegetable life,*
13 *or any byproduct thereof; or*

14 “(5) *any individual employed as an outside buyer*
15 *of poultry, eggs, cream, or milk, in their raw or natural*
16 *state; or*

17 “(6) *any employee employed as a seaman; or*

18 “(7) *any employee of a street, suburban or inter-*
19 *urban electric railway, or local trolley or motorbus*
20 *carrier, not included in other exemptions contained in*
21 *this section; or*

22 “(8) *any employee, other than an office employee,*
23 *employed by a retail or service establishment which is*
24 *primarily engaged in the business of selling automobiles,*
25 *trucks, or farm implements; or*

1 “(9) any employee of a gasoline service station; or

2 “(10) any employee employed as an announcer,
3 news editor, or chief engineer by a radio or television
4 station the major studio of which is located in a city
5 or town of fifty thousand population or less, accord-
6 ing to the latest available decennial census figures
7 as compiled by the United States Bureau of Census,
8 except where such city or town is part of a standard
9 metropolitan area as defined and designated by the Bu-
10 reau of Census, which has a total population in excess of
11 one hundred thousand; or

12 “(11) any employee of an independently owned
13 and controlled local establishment engaged in the bulk
14 distribution of petroleum products who is employed in
15 the delivery of such products to customers of such estab-
16 lishment, if such establishment's annual dollar volume of
17 sales is less than \$1,000,000 and not more than 10 per
18 centum of such annual dollar volume of sales is made to
19 customers who are engaged in the bulk distribution for re-
20 sale of such products or in using such products in opera-
21 tions, other than agriculture, in which goods are pro-
22 duced for commerce; or

23 “(12) any employee employed as a driver or driver's
24 helper making local deliveries in pursuance of an
25 agreement, made as a result of collective bargaining

1 by representatives of employees certified as bona fide by
2 the National Labor Relations Board, which provides
3 compensation for such employment on the basis of trip
4 rates, or other delivery payment plan, if the Secre-
5 tary shall find that such agreement has the general pur-
6 pose and effect of reducing hours worked by such em-
7 ployees to, or below, the maximum workweek appli-
8 cable to them under section 7(a)."

9 EMPLOYMENT OF STUDENTS

10 SEC. 11. Clause (1) of section 14 of such Act is
11 amended by striking out "and" after "apprentices," and by
12 inserting after "messages," the following: "and of full-time
13 students outside of their school hours in any retail or service
14 establishment: Provided, That such employment is not of
15 the type ordinarily given to a full-time employee,".

16 PENALTIES AND INJUNCTION PROCEEDINGS

17 SEC. 12. (a) Section 16(b) of such Act is amended by
18 adding at the end thereof a new sentence as follows: "The
19 right provided by this subsection to bring an action by or
20 on behalf of any employee, and the right of any employee
21 to become a party plaintiff to any such action, shall termi-
22 nate upon the filing of a complaint by the Secretary of Labor
23 in an action under section 17 in which restraint is sought
24 of any further delay in the payment of unpaid minimum
25 wages, or the amount of unpaid overtime compensation, as

1 the case may be, owing to such employee under section 6
2 or section 7 of this Act by an employer liable therefor
3 under the provisions of this subsection.”

4 (b) Section 17 of such Act is amended to read as
5 follows:

6 “INJUNCTION PROCEEDINGS

7 “SEC. 17. The district courts, together with the United
8 States District Court for the District of the Canal Zone, the
9 District Court of the Virgin Islands, and the District Court
10 of Guam shall have jurisdiction, for cause shown, to re-
11 strain violations of section 15, including in the case of viola-
12 tions of section 15(a)(2) the restraint of any withholding
13 of payment of minimum wages or overtime compensation
14 found by the court to be due to employees under this Act
15 (except sums which employees are barred from recovering,
16 at the time of the commencement of the action to restrain
17 the violations, by virtue of the provisions of section 6 of the
18 Portal-to-Portal Act of 1947).”

19 STUDY OF AGRICULTURAL HANDLING AND PROCESSING

20 EXEMPTIONS

21 SEC. 13. The Secretary of Labor shall study the com-
22 plicated system of exemptions now available for the han-
23 dling and processing of agricultural products under such Act
24 and particularly sections 7(c), 13(a)(10) and 7(b)(3),
25 and shall submit to the second session of the Eighty-seventh

1 Congress at the time of his report under section 4(d) of
2 such Act a special report containing the results of such study
3 and information, data and recommendations for further leg-
4 islation designed to simplify and remove the inequities in the
5 application of such exemptions.

6 EFFECTIVE DATE

7 SEC. 14. The amendments made by this Act shall take
8 effect upon the expiration of one hundred and twenty days
9 after the date of its enactment, except as otherwise provided
10 and except that the authority to promulgate necessary rules,
11 regulations, or orders with regard to amendments made by
12 this Act, under the Fair Labor Standards Act of 1938 and
13 amendments thereto, including amendments made by this
14 Act, may be exercised by the Secretary on and after the date
15 of enactment of this Act.

87TH CONGRESS
1ST SESSION

H. R. 3935

[Report No. 75]

A BILL

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

By Mr. ROOSEVELT

FEBRUARY 7, 1961

Referred to the Committee on Education and Labor

MARCH 13, 1961

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

March 15, 1961

policy, and he mentioned others who will be addressing the convention including Mr. McGovern, director of the food for peace program. pp. 3744-5

4. ROADS. Received from the President a proposed bill "which will make it possible to complete our Interstate Highway System by 1972"; to Public Works and Finance Committees. p. 3802
5. FARM LOANS; RESEARCH. The "Daily Digest" states that the Agriculture and Forestry Committee, in executive session, ordered favorably reported H. R. 1822, to modify restriction on farm operating loans; and with amendment S. 1028, to extend, on certain products the effective date of Nematocide, Plant Regulator, Defoliant, and Desiccant Amendment of 1959. p. D165
6. UNEMPLOYMENT COMPENSATION. The "Daily Digest" states that the Finance Committee, in executive session, "ordered favorably reported with amendments H. R. 4806, proposed Extended Temporary Unemployment Compensation Act of 1961." p. D165
7. MINIMUM WAGE. The "Daily Digest" states that the Subcommittee on Labor, of the Labor and Public Welfare Committee, in executive session, "ordered favorably reported to the full committee without recommendation, S. 895, proposed Fair Labor Standards Amendments of 1961." p. D166
8. NOMINATIONS. The Agriculture and Forestry Committee reported the nominations of Charles S. Murphy to be Under Secretary and James T. Ralph to be an Assistant Secretary. p. 3704
9. WATER RESOURCES. The Foreign Relations Committee reported a treaty between the United States and Canada relating to cooperative development of the water resources of the Columbia River Basin which was signed at Washington on Jan. 17, 1961. p. 3704
10. PERSONNEL. Received from the Joint Committee on Reduction of Nonessential Federal Expenditures a report on Federal employment and pay for Jan. 1961 pp. 3705-9
11. FOREIGN CURRENCIES. Received from the Foreign Relations and Appropriations Committees reports on the use of foreign currencies in connection with foreign travel by members and employees of the committees. pp. 3709-13
12. PEACE CORPS. Sen. Javits discussed the results of a Peace Corps survey "which demonstrates the need for a program to prepare students for work abroad." p. 3732
13. LEGISLATIVE PROGRAM. Sen. Mansfield announced that H. R. 4806, the temporary unemployment compensation bill, will be considered next by the Senate. p. 3803

HOUSE

14. DEPRESSED AREAS. A subcommittee of the Banking and Currency Committee "ordered favorably reported to the full committee H. R. 4569 (amended), to establish an effective program to alleviate conditions of substantial and persistent unemployment and underemployment in certain economically distressed areas." p. D168
15. FOREIGN AFFAIRS. Concurred in S. Con. Res. 7 to authorize the printing as a Senate document a compilation of the studies on United States foreign policy prepared under the direction of the Foreign Relations Committee. p. 3818

5. RESEARCH; FOOD INSPECTION. Passed without amendment S. 1028, to amend the Nematocide, Plant Regulator, Defoliant, and Desiccant Amendment of 1959 so as to authorize the Secretary of Agriculture to extend beyond March 5, 1961, the effective date of the registration and enforcement provisions of the Federal Insecticide, Fungicide, and Rodenticide Act with respect to nematocides, plant regulators, defoliants, and desiccants. This bill will now be sent to the President. A similar bill, H.R. 4662, was tabled. p. 4138
6. FORESTRY; RECREATION. Passed without amendment S. 449, to extend from Sept. 1, 1961, to Jan. 31, 1962, the time within which the Outdoor Recreation Resources Review Commission may make its final report. This bill will now be sent to the President. A similar bill, H.R. 2204, was tabled. p. 4138
7. UNEMPLOYMENT COMPENSATION. Received the conference report on H.R. 4806, to provide for the establishment of a temporary program of extended unemployment compensation for unemployed workers, including Federal employees and veterans (H. Rept. 183)(pp. 4135-7). House conferees were appointed earlier (p. 4135).
8. FARM PROGRAM. Rep. Schwengel criticized the President's farm message as containing "no new ideas on how to solve the farm problem," stated that enactment of his proposals "would be abrogating our responsibility as Congressmen," and urged enactment of a bill he had introduced to expand the conservation reserve program. pp. 4185-7
9. LABOR STANDARDS. The Rules Committee reported a resolution for consideration of H.R. 3935, to amend the Fair Labor Standards Act and increase the minimum wage gradually to \$1.25 an hour. p. 4160 *H.R. 229. H. Rept. 182.*
10. WATERSHEDS. The "Daily Digest" states that the Conservation and Credit Subcommittee of the Agriculture Committee approved watershed projects for Ky., N. Mex., Hawaii, and Fla., and passed over various other watershed projects for the States of S.C., Va., and Ky.-Tenn. p. D184
11. PERSONNEL; BONDING. A subcommittee of the Post Office and Civil Service Committee voted to report to the full committee H.R. 2554, to repeal Sec. 14(c) of title 6 of the U. S. Code requiring an annual report by the Secretary of the Treasury with respect to the bonding of Federal employees. p. D185
12. TEXTILE IMPORTS. Rep. Lane urged greater restrictions on the importation of textiles and textile products. p. 4174

SENATE

13. FEED GRAINS. Received the conference report on H.R. 4510, to provide a special program for feed grains for 1961 (p. 4105). Agreed to a unanimous-consent request by Sen. Mansfield to consider the conference report on Wed., Mar. 22, with debate to be limited to 1½ hours (p. 4130).
14. NOMINATION. Received the nomination of John C. Bagwell to be General Counsel of this Department. p. 4131

CONSIDERATION OF H.R. 3935

MARCH 21, 1961.—Referred to the House Calendar and ordered to be printed

Mr. MADDEN, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. 229]

The Committee on Rules, having had under consideration House Resolution 229, reports the same to the House with the recommendation that the resolution do pass.



House Calendar No. 28

87TH CONGRESS
1ST SESSION

H. RES. 229

[Report No. 182]

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 1961

Mr. MADDEN, from the Committee on Rules, reported the following resolution;
which was referred to the House Calendar and ordered to be printed

RESOLUTION

1 *Resolved*, That upon the adoption of this resolution, it
2 shall be in order to move that the House resolve itself into
3 the Committee of the Whole House on the State of the
4 Union for the consideration of the bill (H.R. 3935) to
5 amend the Fair Labor Standards Act of 1938, as amended,
6 to provide coverage for employees of large enterprises en-
7 gaged in retail trade or service and of other employers en-
8 gaged in commerce or in the production of goods for com-
9 merce, to increase the minimum wage under the Act to
10 \$1.25 an hour, and for other purposes. After general de-
11 bate, which shall be confined to the bill and continue not
12 to exceed seven hours, to be equally divided and controlled

1 by the chairman and the ranking minority member of the
2 Committee on Education and Labor, the bill shall be read for
3 amendment under the five-minute rule. It shall be in order
4 to consider, without the intervention of any point of order,
5 the substitute amendment recommended by the Committee
6 on Education and Labor now in the bill, and such substitute
7 for the purpose of amendment shall be considered under the
8 five-minute rule as an original bill. At the conclusion of
9 such consideration the Committee shall rise and report the
10 bill to the House with such amendments as may have been
11 adopted and any member may demand a separate vote in
12 the House on any of the amendments adopted in the Com-
13 mittee of the Whole to the bill or committee substitute. The
14 previous question shall be considered as ordered on the bill
15 and amendments thereto to final passage without intervening
16 motion except one motion to recommit, with or without
17 instructions.

87TH CONGRESS
1ST SESSION

H. RES. 229

[Report No. 182]

RESOLUTION

Providing for consideration of H.R. 3935, a bill to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

By Mr. MADDEN

MARCH 21, 1961

Referred to the House Calendar and ordered to be printed

March 22 1961
No. 50

equipment and other items; technical assistance; skilled manpower from the Peace Corps; development grants; transitional, sustaining or emergency grants; development loans repayable in local currency; and development loans repayable in dollars, with special terms of repayment that will meet the needs of the recipient country. These tools will be coordinated with the activities of the Export-Import Bank, and with loan and investment guarantees to private enterprise. ***

"I recommend, therefore, an authorization for the new aid agency of not less than 5 years, with borrowing authority also for 5 years to commit and make dollar repayable loans within the limits spelled out below. ***

"Consequently, while the funds requested by my predecessor will be sharply shifted in terms of their use and purpose, I am asking the Congress for a total foreign aid budget of new obligational authority no greater than that requested in the rockbottom budget previously submitted (\$4 billion) despite the fact that the number of new nations needing assistance is constantly increasing; and, though increasing such authority for non-military aid while reducing military assistance, this budget provides for a level of actual expenditures on nonmilitary aid no greater than reflected in the previous budget -- \$1.9 billion. These figures do not, of course, reflect Public Law 480 operations."

Sen. Keating expressed skepticism over parts of the message, particularly the creation of a agency to handle foreign aid and the request for appropriations over a 5-year period rather than a 1-year period. p. 4215

Sens. Javits and Cooper commended the message. pp. 4215, 4266-7

3. UNEMPLOYMENT COMPENSATION. Both Houses agreed to the conference report on H. R. 4806, to provide for the establishment of a temporary program of extended unemployment compensation for unemployed workers, including Federal employees and veterans. The House agreed to the report by a vote of 362 to 31. This bill will now be sent to the President. pp. 4238-44, 4270-5
4. FARM LABOR. Sen. Holland criticized the showing by the British Broadcasting Corporation, under an arrangement with the Columbia Broadcasting System, of the film, "Harvest of Shame," depicting certain conditions of migratory farm workers in this country, and debated this matter with Sen. Williams, N. J., and other Senators. pp. 4260-6
5. RECLAMATION. The Interior and Insular Affairs Committee reported with amendments S. 107, to authorize the construction of the Navajo Indian irrigation project and the initial stage of the San Juan-Chama project as participating project of the Colorado River storage project (S. Rept. 83). p. 4202
6. GRANTS-IN-AID. Received from the Advisory Commission on Intergovernmental Relations a report, "Modification of Federal Grants-in-Aid for Public Health Services." p. 4201
7. NOMINATIONS. Confirmed the nomination of Robert S. Shriver, Jr., to be Director of the Peace Corps. p. 4200
The Interior and Insular Affairs Committee reported the nomination of Raphael M. Paiewonsky to be Governor of the Virgin Islands. p. 4200
8. TEXTILE IMPORTS. Sen. Bridges urged action to impose greater restrictions on the importation of textiles and textile products. p. 4207
Sen. Dirksen inserted a statement of the National Assoc. of Wool Manufacturers on the "urgent need for quotas to control low-wage imports of textiles and apparel." p. 4214

9. YOUTH CONSERVATION CORPS. Sens. Gruening and Humphrey spoke in favor of establishing a Youth Conservation Corps and inserted articles endorsing it. pp. 4213, 4260
10. MINIMUM WAGES. Sen. Goldwater inserted numerous articles and editorials opposing enactment of legislation to raise the minimum wage level. pp. 4219-26
11. FARMER COMMITTEES. Sen. Hart commended the recommendation in the President's farm message that "commodity groups work directly on the initial formulation of their commodity programs," and inserted his letter to Secretary Freeman urging that the commodity groups have a representative to give the viewpoint of the consuming public. p. 4269
12. ELECTRIFICATION. Sen. Bennett inserted several letters and statements opposing enactment of legislation to authorize construction of the Burns Creek public power project.
13. ADJOURNED until Fri., Mar. 24. p. 4269

HOUSE

14. DEPRESSED AREAS. The Banking and Currency Committee reported with amendment S. 1, to establish an effective program to alleviate conditions of substantial and persistent unemployment and underemployment in certain economically distressed areas (H. Rept. 186). p. 4341
15. REORGANIZATION. The Government Operations Committee voted to report (but did not actually report) H. R. 5742, to extend the Reorganization Act of 1949. p. D190
16. WATER-HYACINTHS SEEDS. A subcommittee of the Judiciary Committee voted to report to the full committee with amendment H. R. 2041, to remove the restriction on the interstate shipment of water-hyacinth plants or seeds to certain areas where the plants are unable to survive winter weather. p. D190
17. ADMINISTRATIVE ORDERS. A subcommittee of the Judiciary Committee voted to report to the full committee H. R. 5656, to provide for reasonable notice of applications to the U. S. courts of appeals for interlocutory relief against the orders of certain administrative agencies. p. D190
18. MINIMUM WAGES. Began debate on H. R. 3935, to amend the Fair Labor Standards Act and increase the minimum wage gradually to \$1.25 an hour. pp. 4313-8
19. TEXTILE IMPORTS. Reps. Hemphill and Seely-Brown urged greater restrictions on the importation of textiles and textile products. pp. 4318-22, 4335-6
20. PEACE CORPS. Rep. Staggers spoke in opposition to the President's proposal to establish a Peace Corps. pp. 4326-8
21. FOREIGN AID. Rep. Pelly criticized the President's message on foreign aid, particularly the "proposal calling for funding foreign aid outside of congressional appropriations as called for by our Constitution." pp. 4336-7

Mr. VINSON. Except deficiencies; nothing new at all. There is a deficiency item of \$26,000.

Mr. GROSS. The Continental Air Command has not yet been moved to the Truman Airport at Kansas City?

Mr. VINSON. It has not.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ELLIOTT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 5000) to authorize certain construction at military installations, and for other purposes, pursuant to House Resolution 227, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. VAN ZANDT. Mr. Speaker, I demand a separate vote on the Yates amendment.

The SPEAKER. The question is on the other amendment.

The amendment was agreed to.

Mr. McCORMACK. Mr. Speaker, in accordance with an agreement we had with Members who are away attending the funeral of our late beloved colleague, I ask unanimous consent that the further consideration of this bill be postponed until tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 229 and ask for its immediate consideration.

The Clerk read the resolution as follows:

Resolved, That upon the adoption of this resolution, it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes. After general debate, which shall be confined to the bill and continue not to exceed seven hours, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider, without the intervention of any point of order, the substitute amendment recommended by the Committee on Education and Labor now in the bill, and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted and any member may demand a separate vote in the House on any of the amend-

ments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

Mr. MADDEN. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. BROWN] and now yield myself such time as I may require.

Mr. Speaker, House Resolution 229 calls up for consideration H.R. 3935, providing a minimum-wage coverage for large enterprises engaged in retail trade or service, and of other employers engaged in commerce or in the production of goods for commerce. The resolution provides for open rule and 7 hours general debate.

Over 20 million workers in America in the past have been excluded by the Congress from any help or protection whatsoever in maintaining a wage income that will give needed necessities of life for themselves or their families. It is unnecessary to call to the attention of Congress the rapid rise in the cost of living during the last 10 years. In 1958 and 1959 the Bureau of Labor Statistics each month for 16 successive months, announced a rise in the cost of living. Millions of low-wage workers in our Nation are today trying to make a wage check stretch over the 1961 inflated prices with the same amount as they received in wages in the 1940's. These millions of workers are certainly entitled to economic justice on the part of the Congress when this bill is considered during the next few days.

One has only to talk to employees in retail establishments or service organizations anywhere in the Nation and you can learn firsthand the difficulty low wage employees have today in supporting themselves and their families.

This legislation does not in any way affect employees who are members of large labor unions for the reason that through the process of collective bargaining over the years, this class of workers through organization, have been able to keep pace with the high cost of living. This legislation comes to the aid of millions who are unable to maintain a large organization for their economic protection and are dependent on the Government of the United States to aid them in securing adequate income to meet the cost of living.

This bill seeks to accomplish the long delayed recognition of 20 million low-paid workers throughout the country by increasing the minimum wage of presently covered employees to \$1.15 an hour for the first 2 years after the passing of this act and to \$1.25 thereafter. It will also extend the benefits of the law to about 4,300,000 workers in large retail and service enterprises and other employees engaged in commerce or in the production of goods for commerce. For workers newly brought under the act the minimum hourly rate \$1 during the first year; \$1.05 during the second year; \$1.15 during the third year and \$1.25 thereafter.

The purpose of this act is not in any way to regulate or interfere with interstate commerce, but is to eliminate as

rapidly as possible, substandard labor and living conditions throughout the Nation. Of the approximately 45 million salary and wage earners throughout the country, by excluding Government employees, only about 24 million are protected by the minimum wage provisions now in force.

Coverage in this bill, subject to specific exemptions, covers companies with one or more retail establishments if the annual value of sales of the company is not less than \$1 million. It also covers any enterprise that has one or more establishments engaged in laundering, cleaning, or clothes repairing if the annual value of sales of the enterprise is not less than \$1 million. Also local transit business, if the annual gross is not less than \$1 million. Any business engaged in construction or reconstruction is also included if the annual gross is not less than \$250,000. The bill also provides for a number of exemptions which are set out and will be discussed during the 7-hour period of debate pertaining to motion picture theaters, hotels, motels, caterers, hospitals, log operations, recreational establishments, fishing, and so forth.

Under the terms of the bill, the Secretary of Agriculture is directed to study the system of exemptions for the handling and processing of agricultural products and submit to the Congress next January, the results and recommendations from such study. The Secretary is also directed to investigate in any industry under the act, the problem of foreign competition if he has reasonable cause to believe that it is resulting in increased unemployment and report to the President and the Congress any such findings.

There are also provisions in this act for the elimination in industry engaged in commerce or the production of goods for commerce, labor conditions which are detrimental to the maintenance of the minimum standards of living necessary for health, efficiency and the general well-being of the workers.

The Labor and Education Committee is to be commended for the work it has done in preparing facts and statistics from various cities throughout the Nation, setting out the minimum budget for a family of four to provide its necessities of life during the present high cost of living bracket in these areas. The breakdown shows that in about 20 cities the average income of a family of 4 for the bare necessities of life, will run around \$6,200 per year. On this basis, the head of the family at \$1.25 hourly rate, would be compelled to work 2,000 hours a year to meet the minimum living budget in the average city.

Also provided in the act will be the creation of an administrator in the Department of Labor to supervise and conduct the Wage and Hour Division of the Department. This administrator will be appointed by the President with the advice and consent of the Senate and receive an annual salary of \$20,000 a year.

The Rules Committee provided 7 hours, an extraordinarily long period of time for debate and consideration of this legislation.

Recently the Gallup poll made a survey over the Nation on the necessity of the passage of increased minimum wage legislation and coverage. The results of this poll revealed that 70 percent of those covered in the Gallup poll canvas, signified the necessity to protect the millions of underpaid workers throughout the Nation. There is no doubt that the passage of this act will be a step toward increasing the purchasing power of millions throughout the country and this fact will aid retailers and contribute toward the restoring of employment to a great number of millions who are now unemployed and work part time in the industrial areas throughout the Nation.

During the 5 years since the \$1 minimum wage became effective the earnings position of most workers has improved markedly. In many industries, including both manufacturing and non-manufacturing groups, average earnings increased by 25 percent or more. The increases in the earnings of most factory workers have been large enough to both offset the increase in the cost of living and to provide the average workers with an equitable share of the benefits of increased productivity.

Between March 1956 and January 1960, the Consumer Price Index rose by 11 percent. A minimum wage of \$1.25 an hour, if made effective immediately, would provide low-paid workers the same real wage as did the \$1 minimum in 1956, plus a proportionate share of the greater output of goods and services made possible through increased productivity.

Mr. Speaker, I urge the adoption of House Resolution 229.

(Mr. MADDEN asked and was given permission to revise and extend his remarks.)

Mr. BROWN. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BROWN asked and was given permission to revise and extend his remarks.)

Mr. BROWN. Mr. Speaker, as the gentleman from Indiana [Mr. MADDEN] my colleague on the Rules Committee has very ably explained, House Resolution 229 makes in order the consideration of the bill H.R. 3955, introduced by the gentleman from California [Mr. ROOSEVELT] the so-called minimum wage bill, under a special rule that makes the amendment to the original bill in order as though it were an original bill, waives points of order, and provides for 7 hours of general debate.

Mr. Speaker, this is a very, very controversial measure, as I am sure you are well aware. The Rules Committee held 2 long days of hearings on the measure, and we heard a great many Members of Congress express differing views on this particular subject, as to whether the minimum wage should be raised; and, if so, how much; and also whether the number of employees to be covered under the act should be increased; and, if so, in what vocations or occupations, and what employers should come under the provisions of the law.

It is my understanding that a number of substitute bills will be offered as amendments to the Roosevelt measure.

One of these substitutes will be submitted by representatives of the minority, a bill which will differ considerably from the content of the Roosevelt bill, and will not provide for as broad coverage of employees or as large a pay increase as is carried in the Roosevelt bill.

There will also, I understand, be some special new legislation that has just been prepared perhaps because of the fact that there appears to be a realization that some sort of compromise may be necessary if this legislation is to be approved in any form. That bill may be introduced tomorrow and be considered tomorrow or the next day. There are some primary differences between most of these substitute measures and the Roosevelt measure.

Under the Roosevelt bill the minimum wage would be fixed at \$1.15 an hour in covered industries, that is, covered employees, to begin 4 months after signature of the bill into law and to run for 2 years, following which the minimum wage would be automatically increased to \$1.25 an hour.

There are those, of course, who feel that the first step might be in order but see no reason why it is necessary for Congress at this time to fix a higher minimum wage for some future year in view of the fact that Congress will be in session each year between now and the time that provision of the Roosevelt bill would become effective.

Seemingly the real nub of the argument between the proponents of the two types of bills that will be before us in substance is that the Roosevelt bill would bring into play for the first time in the history of minimum wage legislation the concept not that minimum wages be fixed for employees or employers engaged in interstate commerce such as we have always known interstate commerce to mean; that is, to wit, the manufacture and distribution of goods across State lines, but instead we would fix the measuring stick for retailers and for service establishments according to income. In other words, any store, for instance, retail establishment or service establishment that might do \$1 million worth of business per year would automatically come under the interstate commerce clause of the Constitution and within the provisions of this bill and they would be required to pay the minimum wage.

The opposition to this theory says if they are properly a local establishment, volume of business should not control. On the other hand, the testimony before the Rules Committee shows that the Secretary—and if I am wrong I hope the gentleman will correct me—took the position that any business would be covered under the interstate commerce clause if it received or used in the business, although it might be purely local, any product shipped in interstate commerce to be used in their local service, or by the retail establishment and they would come under the provisions of this minimum wage law. In other words, if the little corner grocer sold Post Toasties shipped in interstate commerce he would come under the provisions of the law.

The fear was expressed, that if who should come in or who should not come

under the interstate commerce clause and under the provisions of the Wages and Hours Act, on the basis of income, or a total volume of business of \$1 million, it would be easy next year—in fact, some notices have been served by organizations that they would do so—to increase that to \$5 million or \$10 million or \$100 million. That is the difference in the primary bills.

There will be other substitutes offered to establish the age-old concept that those engaged in interstate commerce must actually be engaged in the manufacture or production or distribution of goods across State lines.

There are certain exclusions that are rather peculiar. For instance, hotels are excluded under the original bill offered by the gentleman from California [Mr. ROOSEVELT]. In answer to an interrogation as to why they were excluded, it was stated that the hotel business—and it is true, nobody questions the veracity of the statement—is in the doldrums, and was not making any money. Which brings up this question, Should we decide who should come under the law on the basis of whether they are making a profit or not? And would it not be necessary to adjust every year those to be covered by the law because one concern might make money this year and lose it next, and vice versa, backward and forward.

So we have some real issues here, some real fundamental problems to settle in your own minds. First of all you must decide in your own mind whether or not you feel an increase in minimum wage is justified. The author of the original bill and the author of the primary substitute feel that there should be some increase in minimum wages. There are others who feel there should not be and, undoubtedly, amendments and substitutes to that effect will be offered.

So I want to urge, if I may, that you give very careful attention to this bill.

This is a rather large bill. It contains some 51 pages. It is necessary to give it careful consideration, because there are some peculiarities in this measure, some provisions, some sections of proposed law that are very difficult to understand; some that have not been explained thoroughly by the proponents of the legislation. Some provisions are, of course, opposed very violently by some Members of Congress. I do not believe I have seen in a long, long time any legislation coming before this House in which there was a greater divergence of opinion and belief, if I may use that phrase, among the Members of the House. Perhaps there are more different opinions as to just what should be included in this bill, on this particular measure, than any we have had before us for a long time. In other words, there are a great many sections and a great many places where there is not a clear-cut division, but yet you must remember that over all you must decide here as to what is to be the concept of interstate commerce as far as Congress is concerned in the years ahead; whether or not we are to change that concept of what interstate commerce really means that we have had throughout the years

ever since the first Minimum Wage Act became law in 1938, and even long before that, and adopt some new concept that will be predicated on the volume of business done or on the question of profits of the organization or the employer involved.

I want to urge, if I may, that you give thoughtful consideration to this measure. There are 7 hours of general debate. I am sure, as the sponsors of the two bills have indicated, that is, the original bill and the substitute, before the Committee on Rules, that there will be a fair division of time, and that was the thought and the intention of the committee in granting 7 hours, that each individual Member may have at least a fair opportunity to express his own views and opinions on this very important legislation.

Mr. MADDEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROOSEVELT].

Mr. ROOSEVELT. Mr. Speaker, as the distinguished gentleman from Ohio clearly pointed out, there is very definitely an interesting constitutional question involved in this bill, and in order to make some contribution to it at an early date, I ask unanimous consent to include as part of my remarks a memorandum prepared by the Department of Labor regarding the constitutional question involved.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The matter referred to is as follows:

CONSTITUTIONAL AUTHORITY FOR EXTENSION OF MINIMUM WAGE TO RETAIL ENTERPRISES AS PROVIDED IN H.R. 3935

H.R. 3935 as reported by the Committee on Education and Labor would extend the coverage of the Fair Labor Standards Act to employees of a retail enterprise which (1) has one or more employees engaged in commerce or in the production of goods for commerce and (2) has an annual gross volume of sales, exclusive of separately stated retail excise taxes, of \$1 million or more.

The constitutional authority of the Congress, in the exercise of the commerce power, to provide this coverage is abundantly clear.

Extension of retail coverage—the major thrust of the pending amendments—must be tied explicitly to the criterion of enterprises engaged in commerce. This is a restatement of the criterion used in the original Fair Labor Standards Act and its subsequent amendments. The Supreme Court in *U.S. v. Darby, Lumber Co.* (1941) said, "The power of Congress over interstate commerce is not confined to the regulation of commerce among the States. It extends to those activities intrastate which so affect interstate commerce or the exercise of the power over it as to make the regulation of them appropriate means to the attainment of a legitimate end, the exercise of the granted power of Congress to regulate interstate commerce. * * * The Sherman Act and the National Labor Relations Act are familiar examples of the exertion of the commerce power to prohibit or control activities wholly intrastate because of their effect on interstate commerce."

Retail and service establishments now use the facilities of interstate commerce to procure merchandise by which they carry on local retail and service activities. This merchandise is sold by employees working for substandard wages or in substandard work-

ing conditions. Thus the facilities of interstate commerce are clearly agents in the perpetuation of working conditions which Congress has the responsibility—as guardian of interstate commerce—to correct. The sale of merchandise or the performance of services under these substandard working conditions—in the words of the original act—

(1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce.

The dollar volume test is a reasonable determination of the size of enterprise able to support its employees at the levels set forth in the act. While this is, in some respects, arbitrary, it is no more arbitrary than any other specific legislative application of a general legislative principle, e.g., the selection of five establishments in the Kitchen-Ayres formula of "five or more stores in two or more States."

The opponents' case rests on a fundamental misunderstanding of the commerce clause as set forth in previous Congresses and as interpreted by the Supreme Court. First, they restrict their consideration of interstate activities to those occurring under the second major criterion found in the act, i.e., "enterprises engaged in the production of goods for commerce." For example, they no longer object to most manufacturers being included in the act. Second, they imagine that physical location is the determining factor of an enterprise's relation to interstate commerce. For example, they hold that an enterprise is not engaged in commerce unless its establishments are at least five in number and located in two or more States. Since their selection of five establishments is at least as arbitrary as the \$1 million volume test, the burden of their case must rest with the "two or more States" provision. However, such enterprises do not demonstrably use the facilities of interstate commerce in the conduct of their retail or service activities to a greater extent than enterprises located within a single State. The fact of location neither increases nor decreases the dependence of these retail or service outlets on the facilities of interstate commerce. It is not the location of these establishments but their dependence upon interstate commerce for the merchandise without which they could not conduct their business activities, that is the determining factor. The proponents of the Kitchen-Ayres substitute confuse commercial location with commercial activity.

The constitutionality of the application of the present act to employees engaged in commerce or in the production of goods for commerce was upheld in *United States v. Darby* (312 U.S. 100), and the Supreme Court has emphasized in other cases under the act (e.g., *Kirschbaum v. Walling*, 316 U.S. 516; *Higgins v. Carr Bros. Co.*, 317 U.S. 572; *Walling v. Jacksonville Paper Co.*, 317 U.S. 564; *Mitchell v. Zachry Co.*, 362 U.S. 310) that the Congress in providing this coverage stopped considerably short of the full reach of its constitutional power under the commerce clause. In answer to the contention that an employer in an industry alleged to be "purely local in nature" should not be compelled to comply with the act, the Supreme Court has pointed out that "to the extent that his employees are 'engaged in commerce or in the production of goods for commerce', the employer is himself so engaged."

Second, coverage of only those retail enterprises having a gross annual volume of sales of \$1 million or more provides more than ample assurance that the coverage will be limited to enterprises with a sufficiently substantial impact on interstate commerce to be well within the scope of the constitutional power.

Third, it has long been settled by the Supreme Court that "the power of Congress to regulate interstate commerce extends to the regulation through legislative action of activities intrastate which have a substantial effect on the commerce or the exercise of the congressional power over it" (*United States v. Darby, supra*).

Fourth, it is equally settled that the question whether "the conduct of an enterprise affects commerce among the States is a matter of practical judgment," and that the "exercise of this practical judgment the Constitution entrusts primarily and very largely to the Congress." *Polish Alliance v. Labor Board* (322 U.S. 643, 650).

Under these principles, there is no question that a practical judgment by the Congress that the enterprises covered by the bill have a substantial impact on commerce would be upheld by the courts.

The congressional findings in section 2 of the present act state that "the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers" among other things "burdens commerce and the free flow of goods in commerce" and "leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce" as well as "interferes with the orderly and fair marketing of goods in commerce."

That the retailing industry is an industry engaged in commerce to which these findings are applicable should be beyond question. It is on the sales made and the orders placed by the enterprises in this industry that the production for commerce and the continuing flow across State lines of consumer goods depends. As stated in the report of the Committee on Education and Labor (H. Rept. No. 75, p. 8):

"Retailing today is no longer essentially local in nature. It has become a vital and indeed indispensable part of the interstate stream of commerce through which flows the huge volume of consumer goods produced, shipped, and distributed to meet the individual and family demands of our Nation's population. The efficiency with which the country's retail enterprises perform their function of getting these goods to consumers directly affects the vitality and growth of those segments of American industry which produce, handle, and transport through the arteries of interstate commerce from every corner of the land the commodities which supply our citizens in all the 50 States."

The exercise of Federal authority under the commerce clause with respect to employment in retailing and with respect to goods which have moved across State lines and are held for local disposition is not novel. Prior to the so-called no-man's land amendment to the National Labor Relations Act, made by the Labor-Management Reporting and Disclosure Act of 1959, the National Labor Relations Act was repeatedly held to provide exclusive procedures, and to bar State action, with respect to labor relations problems of retailers handling goods that had moved across State lines, even though all or most of their sales were within the State of location. (See *Meatcutters v. Fairlawn Meats*, 353 U.S. 20 (three retail meat markets, all of whose sales were intrastate, but whose annual out-of-State purchases totaled slightly more than \$100,000 out of gross purchases of \$900,000); *San Diego Unions v.*

Garner, 353 U.S. 26 (two retail lumber yards whose out-of-State purchases totaled \$250,000). See also *Howell Chevrolet Co. v. N.L.R.B.*, 346 U.S. 482 (retail automobile dealer purchasing from local warehouse of General Motors autos and parts manufactured out of the State). The constitutional power of Congress under the commerce clause to exercise authority with respect to "articles that have completed an interstate shipment and are being held for future sales in purely local or intrastate commerce" is also settled. (*United States v. Sullivan* 332 U.S. 689 (drug-gist convicted of failure to comply with labeling requirements for sulfathiazole which was sold to customers after having moved in commerce).) A recent exercise by the Congress of this authority is the legislation (Public Law 85-506) requiring certain information for prospective purchasers to be kept posted on new automobiles prior to their sale to the ultimate consumer and providing penalties for any willful removal or alteration of the label containing the required information.

The committee bill, in limiting coverage to retail enterprises having a gross annual sales volume of at least \$1 million, would provide even greater assurance that only enterprises with substantial impact upon commerce would be reached than did the enactment by the last Congress of legislation under which the National Labor Relations Board may not decline to assert jurisdiction in the case of a retail enterprise having annual gross sales of \$500,000 or more (Public Law 86-257, sec. 701). When the Board adopted the \$500,000 figure for its jurisdictional standard in such cases, it determined that this would "reasonably insure that jurisdiction will be asserted over all labor disputes involving retail enterprises which tend to exert a pronounced impact upon commerce." (See *Carolina Supplies & Cement Co.* (122 N.L.R.B. 88, 90).) The enactment of section 701 of Public Law 86-257 indicates that the 86th Congress also concluded that retail enterprises with this volume of business have sufficient impact upon commerce to justify a continuance of exclusively Federal regulation of labor-management relations.

The million-dollar limitation undoubtedly provides a coverage which falls far short of exercising the constitutional power to its fullest extent. It is now well settled by the Supreme Court decisions that the constitutional power extends to activities affecting interstate commerce in any amount or volume not so minimal and sporadic as to invoke the legal doctrine of *de minimis non curat lex* (which in lay terms means: so negligible as not to warrant the Court's attention). As stated in the Supreme Court's decisions under the National Labor Relations Act, "The power of Congress to regulate interstate commerce is plenary and extends to all such commerce be it great or small," since "commerce may be affected in the same manner and to the same extent in proportion to its volume, whether it be great or small." (See *Labor Board v. Fainblatt*, 306 U.S. 601, 606-607 (1938); *Labor Board v. Denver Bldg. Council*, 341 U.S. 675, 684-685 (1951); *Carpenters Union v. Labor Board*, 341 U.S. 707 (1951).)

Thus in *Guss v. Utah Labor Board* (353 U.S. 1 (1956)), the Supreme Court held that manufacturing operations involving the inflow from out-of-State sources of less than \$50,000 of supplies sufficiently affected interstate commerce to invoke coverage of the National Labor Relations Act and to oust State jurisdiction even though the National Labor Relations Board had declined to assert jurisdiction. And in *Labor Board v. Stoller* (207 F. 2d 305 (C.A. 9), certiorari denied, 347 U.S. 919 (1954)), the National Labor Relations Act was held applicable to a local drycleaner who purchased \$12,000 worth of supplies from outside the State, the Court holding that that amount "was

not so insignificant as to come within the rule of *de minimis non curat lex*."

Since the impact on interstate commerce of a retail enterprise having gross sales of a million dollars or more a year will be more rather than less than that of those retail enterprises now covered by the National Labor Relations Act which have annual gross sales of only half a million dollars, and since the Congress and the courts have approved the NLRB coverage as a proper exercise of Federal authority under the commerce power, there is no question that this moderate exercise of congressional power in H.R. 3935 would be upheld as constitutional, even if this basis of coverage stood alone. It does not stand alone, however, but the proposed coverage rests also on the employment in the activities of the enterprise of employees engaged in commerce or in the production of goods for commerce—which has been held a constitutional basis of coverage under the present act. The bill thus provides a double assurance against any extension of Federal regulation of retail enterprises under the act into areas of doubtful constitutionality.

Mr. MADDEN. Mr. Speaker, I yield such time as he may desire to the gentleman from Massachusetts [Mr. LANE].

Mr. LANE. Mr. Speaker, no nation, however prosperous, is economically sound or just, when tens of millions of its workers are not protected by fair labor standards, and many of those who are being paid the legal minimum wage find it does not provide a modest but adequate level of living.

If one fact is clear in the world today, it is that people at the bottom have a right to, and are demanding a fair return for their labor that will enable them to support themselves.

In the United States, the Bureau of Labor Statistics has developed a list of goods and services designed to estimate the dollar amount required to maintain such a family—consisting of an employed husband, a wife not employed outside the home, and two children—at a level of adequate living, according to prevailing standards of what is needed for health, efficiency, and nurture of children. According to this family budget, an employee in the city of Boston and its suburbs would have to be paid \$3.15 an hour, working 2,000 hours a year, to reach this minimum standard of living.

Not only is the present minimum wage of \$1 per hour less than one-third of that standard, but the proposed increase to \$1.25 per hour—which would not become effective at that level until 28 months after the date of enactment—would still be 60 percent short of that standard. In fact, it will be more than 60 percent short because of the gains in productivity during the next 28 months.

The proposed legislation, even though it fails to bridge the gap, is consistent with previous upward adjustments in the minimum wage. It will do no more than restore the relationship to average earnings of the 75-cent rate and the \$1 rate, when they were enacted. During the 5 years that the \$1 minimum wage has been in effect, the average earnings of most workers have increased substantially. These increases have been enough to both offset the increase in the cost of living and to provide the average workers with a fair share of the benefits from increased productivity.

However, this has not helped those employees who have been held down to the legal minimum wage. And what about the 21 million wage and salary workers out of the 45-million total—excluding Government employees and executive, administrative, and professional employees—who are not protected by the present minimum wage?

After extensive hearings and a thorough consideration of all facts, the House Committee on Education and Labor has reached this conclusion:

The \$1.25 rate, even if imposed immediately, would have no greater cost impact than did the increase in the minimum wage from 75 cents to \$1, to which a satisfactory adjustment was made. Therefore, there should be no question as to the ability of employers to make satisfactory adjustment to the \$1.25 rate over a period of 28 months.

I am wholeheartedly in favor of the Fair Labor Standards Amendments of 1961. At the same time I realize that, in the complexity of our economy, a bill dealing with one phase, may require compensatory adjustments in other areas. For example, I have in mind the difficulties of our textile industry in trying to cope with the invasion of low-wage imports. Increased costs, passed along to the consumers, will further weaken this industry's ability to compete with foreign goods in our own home market. To offset this, I believe we should also provide the textile industry with protection by imposing import quotas.

Returning to the main issue before us, I want to emphasize that H.R. 3935 will raise the minimum standards for American workers and bring approximately 4,300,000 additional employees within its protection. It will also lead to the more widespread distribution of purchasing power that is essential to promote the growth of our economy.

As the provisions of this bill will become effective 120 days after enactment, they will give employers sufficient time to accommodate themselves to the changes.

Furthermore, the gradual improvement in the minimum wage will stimulate and strengthen the upturn in business, as we emerge from the recession.

The Fair Labor Standards Amendments of 1961 represent a reasonable and realistic adjustment to the increases in the cost of living and the increases in productivity that have occurred since the act was last amended in 1956.

Mr. BROWN. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. HIESTAND].

Mr. HIESTAND. Mr. Speaker, we are here debating a rule. The rule makes in order the consideration of H.R. 3935 and does not provide for debate on any other subject or any other amendment. For that reason I shall direct my remarks to the bill before us and the rule permitting the consideration of this bill.

Mr. Speaker, in my judgment, this is a very bad bill. It would defeat the very object for which it is supposedly designed. The sponsors of this bill, including the President, are well informed and familiar with the mass of testimony we heard last year. The President was on the committee in the other body, and

most of the members of our committee heard much testimony. Considering this, they could have only one of two objects in promoting the bill.

It is either a great vote-getting gadget, or a long step further to build big government.

It would be highly inflationary, since union leaders and others testified that the wage differential would have to be maintained all the way up the line, and would, by competition with other industries, eventually spread to all industries. This would raise the cost of living particularly cruel to low-income people whom it was designed nominally to help. They would quickly find that their raise was a delusion, eaten up by the increased cost of living.

It would increase the cost of production, putting us further out of competition with imports, thus increasing unemployment, about which the administration professes so much concern.

It would increase unemployment directly, especially among the many of thousands of marginal workers who are not equipped to earn more money and have little chance to get any other jobs. This spells tragedy to them.

But, very importantly, it would put an entirely new concept into the definition of interstate commerce. If enacted, it would enable the Federal Government to interject itself into every business, large or small, even to the corner boot-black stand.

Mr. Speaker, the Fair Labor Standards Act of 1938, designed to correct sweatshop practices, based its action on the legislative finding that the existence of certain labor conditions in the manufacturing industry constituted an unfair method of competition as between industries in the several States.

Supreme Court decisions have upheld the authority of Congress to legislate on substandard labor conditions producing this unfair competition.

The Court has never held that Congress may constitutionally prescribe minimum wages or maximum hours in enterprises having no substantial effect on interstate commerce.

This bill is a sharp departure from the historical application of Federal power as limited by the Constitution.

Mr. Speaker, every bill we pass broadening the power of big government weakens the Federal republic concept of our Government, and it is a long step toward dictatorship. There are many people here in Washington intent on increasing the power of the Federal Government and decreasing the power of the States, communities, and individuals.

Even so, there is a joker in the bill which might be termed the Jimmie Hoffa "sweetheart clause." It exempts any employee employed as a driver or driver's helper making local deliveries in pursuance of an agreement made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board.

As everybody knows, Jimmie Hoffa's Teamsters Union controls the vast majority of truckdrivers. Is not this unfair and discriminatory clause a clause

forcing membership into Jimmie Hoffa's union?

Either the administration or the sponsors of the Roosevelt bill believe this bill would be a popular vote-getting gadget, or they are intent upon putting another nail in the coffin of the representative republic the Founding Fathers laid down for us. In either event, I feel it is a very bad, vicious bill, would doublecross the lower income workers, and must be defeated.

Mr. Speaker, I oppose the rule. I hope that the rule itself will be defeated.

Mr. BROWN. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York [Mrs. ST. GEORGE].

Mrs. ST. GEORGE. Mr. Speaker, this bill has been explained slightly; but I think we will know all about it tomorrow and the day after, after listening to the general debate, which is limited to 7 hours.

Mr. Speaker, I would like to say one thing, that as the bill comes to us—that is, the committee substitute which will be considered—it is one of the best "yes-but" bills that I have ever seen debated on the floor of the House.

Mr. Speaker, first of all I was led to believe, and I think a great many other people throughout the country were, that this bill was going to be a \$1.25 minimum wage bill. As I have explained to my friends and my constituents the bill, of course, is nothing of the kind. The bill is a \$1.15 minimum and it may—and this is another one of the "if-but" clauses—it may be raised to \$1.25 in the next Congress. Nothing of the kind will happen in the present Congress. Therefore I think it is well to advise our constituents and others that this bill is a minimum of \$1.15.

Another very interesting thing, if you will refer to page 4 of the committee report, is the reference to those who are to be newly covered in the bill. I would suppose they would be coming in at \$1.15 if this is to be a \$1.15 minimum bill. But this is what you will read in the second paragraph on page 4 of the report:

For workers newly brought under the act the minimum hourly rate would be: \$1 during the first year; \$1.05 during the second year; \$1.15 during the third year; \$1.25 thereafter.

So that it is not even a \$1.15 minimum, it is a \$1 minimum.

We were also informed by one of those testifying before us, and I have every reason to believe his testimony was entirely correct, that, strangely, we do not have a dollar minimum today, that in one of the largest hotels in Akron, Ohio, which I would think was a high-level wage center, a contract had been negotiated with the union for the help, and they had been given and had accepted 97 cents an hour. When I asked the question of how this was possible under any law existing in the country today or to be, I was informed it was because it was thought that that was all the traffic would bear.

Mr. Speaker, one of the things to which I think exception can be taken in this matter is the fact that it is entirely based, apparently, on dollar values and

on what the traffic will bear. It is not based on interstate commerce at all. It is based on how much gross or net an enterprise takes in. If they can afford it they will have to pay more. If they cannot afford it, apparently they will even be able to settle for 97 cents an hour.

I am very sure that substitutes will be offered to the committee substitute; in fact, I know of one in particular that will be offered that will correct this situation and that will put this thing on a proper basis, on an interstate basis, and at a \$1.15 minimum per hour, not more, not less, and not dependent on what the traffic will bear. It seems that that is the best we can get for the next 2 to 3 years. So that is something to be considered.

If you will refer to the committee report you will find that beginning at the bottom of page 4 and running through page 5 to the top of page 6 there is a list of exemptions. If you will go through that list you will find that there are 18 exemptions to this committee substitute as written. I can assure you that with 18 exemptions almost anyone with a good Philadelphia lawyer and pretty good brains can get pretty well out from under this piece of legislation.

It is a disappointment to me that such a bill has been brought in, and that such a bill is being promulgated on the basis that we are doing something, when we are not doing anything at all, as anyone who studies this legislation will see.

I will conclude, Mr. Speaker, by simply saying that it is my honest hope that this committee substitute will be defeated, and that some sound legislation with a minimum wage that everyone in this country can understand and know about, and with no exemptions, will be put through the House of Representatives.

Mr. HOFFMAN of Michigan. Mr. Speaker, will the gentlewoman yield?

Mrs. ST. GEORGE. I yield.

Mr. HOFFMAN of Michigan. I did not quite understand that last statement. The gentlewoman hopes the substitute will be defeated?

Mrs. ST. GEORGE. There is a committee substitute that will be offered in place of the bill H.R. 3935. It will be presented as the bill to be debated.

Mr. HOFFMAN of Michigan. That is, the gentlewoman is in favor of the substitute that is going to be offered?

Mrs. ST. GEORGE. No, I am not in favor of that substitute. It is a good thing the gentleman brought this up. I am not in favor of the committee substitute, but there are other substitutes that I understand are to be offered from the floor. There is one I know the gentleman will approve, and I have no doubt there are others who will also approve it.

Mr. HOFFMAN of Michigan. I thank the gentlewoman.

Mr. MADDEN. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. McCORMACK].

Mr. McCORMACK. Mr. Speaker, as we approach the consideration of this bill, my mind goes back to the mid-thirties when the first minimum wage bill came up in the House of Representatives. That bill came out of the Com-

mittee on Labor. The chairman of that committee at that time was one of the greatest legislators and one of the most courageous legislators I ever served with, the late Mary T. Norton, of New Jersey. I can see her now as she stood in that well fighting for the passage of the original minimum wage bill to provide for 25 cents an hour for those who were covered in that bill, and I can assure you the coverage was very slim because we had to give and give and give in order to get a bill through the Congress and on the statute books. I remember that bill very well because I presided as chairman of the Committee of the Whole in the consideration of that bill. The bill was debated for 11 days. After that bill got through the Committee of the Whole, it was so amended—so badly amended, that those who favored the passage of the bill voted to recommit the bill back to the legislative committee in order that 6 weeks or 2 months later Mrs. Norton and her committee would report out another bill, and so that we might have a chance to get some kind of decent minimum wage bill through this body. That is what happened. We had the same opposition then that you hear now. Then the minimum wage provision went to 35 cents and 40 cents and there was that steady climb upward.

In the last amendment to the minimum wage law, President Eisenhower recommended an increase from 75 cents to 90 cents, and the bill that came out of the committee provided for a \$1 minimum wage. Now we have this bill providing for the next increase to \$1.15 with a provision that 2 years later, it will be increased to \$1.25. So, Mr. Speaker, I rise at this time more to pay tribute to one who has taken the journey into the great beyond, the late Mary T. Norton, and I want to refresh the memories of my colleagues of that great battle that we had at that time to try to establish the minimum wage of 25 cents an hour. Then when the bill was so riddled to pieces by the opponents and by those who were killing it with kindness, we who favored the bill voted to recommit the bill to the legislative committee in order that later on another bill could be reported out. That is what happened at that time. Now we have the same kind of opposition. We hear those who draw the thin line of demarcation and try to be in favor of the bill while, in fact, they are against it. You are going to see them parade down to the well of this Chamber in the next 2 days while this bill is being debated, the same as I saw them do when the original 25-cent minimum wage bill was being considered.

So, Mr. Speaker, I pay tribute to that great lady and to the progressive members of that committee. Here we see nothing but history repeating itself where those who are opposed to this kind of legislation are going to use every means they can indirectly to try to weaken the bill and to make it as ineffective as possible.

Mr. MADDEN. Mr. Speaker, I move the previous question on the resolution. The previous question was ordered.

The SPEAKER. The question is on the passage of the resolution.

The question was taken and the Speaker announced that the ayes appeared to have it.

Mr. HIESTAND. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. McCORMACK. Does the gentleman insist on his point of order?

Mr. HIESTAND. I do.

Mr. McCORMACK. While we have no agreement that there would not be a rollcall on a rule, nevertheless, having in mind that this is the last piece of business of the day and that Members are absent attending the funeral of a late colleague, I ask unanimous consent that further consideration of this rule be postponed until tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CORRECTION OF ROLLCALL

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent to correct the RECORD. On rollcall No. 20, I was in the Chamber and voted "yea." I ask that the RECORD and Journal be corrected accordingly.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

(Mr. GEORGE P. MILLER (at the request of Mr. McCORMACK) was given permission to extend his remarks at this point in the RECORD.)

Mr. GEORGE P. MILLER. Mr. Speaker, in my address to the House on February 7, I mentioned various leaders of American industry which have been devoted to the progress of this weapons system—among them the Sperry Rand Corp.

At my request, this company has now made available to me reprints of an article on the Nike-Zeus published in the fourth quarterly issue of 1960 of their fine magazine, Sperryscope.

This question-and-answer exchange with the Army's Chief of Research and Development, Lt. Gen. Arthur G. Trudeau, is very informative, short, and to the point.

I believe that each Member of the House will find it of value, in terms of our concern with the problems of national security, and I have today sent a copy to each Member—together with a copy of my address of February 7.

TEXTILES AT THE CROSSROADS

The SPEAKER. Under the previous order of the House the gentleman from South Carolina [Mr. HEMPHILL] is recognized for 1 hour.

Mr. HEMPHILL. Mr. Speaker, 2 weeks ago I rose to call the attention of my colleagues, and the attention of the Nation, and, I hope, the attention of those who soon will make a critical, and far-reaching, decision on our textile import problems, the critical and troubled situation in this major and patriotic industry, on which the economy of my section, and many other sections of

the country, depends. I have never been more serious in my life, nor have I been more concerned, and especially as from day to day I get reports of more people out of work, or more people reduced to part-time or part-week operations in the textile industry in my own home district. I am convinced that our unemployment, and lack of full employment, will be speeded up, unless something is done to either give relief, or assure relief to our textile people. I am not talking about management and investment alone, I am talking about the jobs of taxpayers of America.

These people expect this administration to be sympathetic. These people who are working in the textile mills of South Carolina and elsewhere believe the Democratic Party has a sympathy for every individual in the Nation. These people have been assured that this administration, and departments of this administration, are concerned with their problem, and will make every endeavor to give some relief. They already know the sympathy of many Members of the Congress, and I am proud of the record we in Congress have made to present their case to the Nation.

In the 4½ years that I have been here, it has been my sad privilege to witness almost a hardening of hearts against our textile people, and, in many areas, a lack of concern over these people who have always responded in time of war with their sons, in time of war with their production, in time of peace with hard work, in time of peace with their taxes, and at all times, as a part of the greatness of this Nation, their absolute patriotism. I recall with great nostalgia that during and after the war every part of the industry in my particular district received a certificate of excellence, signifying their contribution in the defense of this great country. Is it too little to expect consideration now that we are in the cold war? Are these people, and their jobs, only dear to this Government in the times of a hot war? Are these jobs so expendable, that during another hot war, having disappeared from the scene because of the policies of a hard-hearted Government, that their production capacity is deleted of the American industrial scene, and their efforts forgotten? I believe not.

During the campaign of 1960, I campaigned very hard for the Democratic ticket. I did so because I had been a front-row witness of the fact that the Republican Party of this Nation had given only lip service to all the promises of relief, little concern to the needs for relief. That party had taken the attitude that the cry of the textile people was baseless, and had surrendered to the international policy of putting the international trade first before our domestic interests, and the needs of our people second. Each of the candidates of the Democratic Party came from areas which included textile areas, and I felt, and still feel, that they understood our problems and would listen with a sympathetic ear. I am now asking action.

As far back as 1956, representatives of the textile industry, and those of us

Digest of CONGRESSIONAL PROCEEDINGS

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

CONTENTS

Issued March 24, 1961
For actions of March 23, 1961
87th-1st, No. 51

Adjournment.....	23
Appropriations.....	6,8
Credit unions.....	10
Depressed areas.....	7,13
Electrification.....	19
Farm labor.....	2,9
Farm program.....	15
Feed grains.....	25
Foreign aid.....	24
Foreign trade.....	1
Great White Fleet.....	24
Housing loans.....	4,22
Interest rates.....	19
Livestock.....	11
Loans.....	4,22
Minimum wage.....	5,16,18

Peace Corps.....	14
Personnel.....	21
Public Law 480.....	1
Reorganization.....	3
Research.....	17
Retirement.....	21
Small business.....	12
Surplus commodities.....	1
Transportation.....	20
Veterans' loans.....	4,22
Water research.....	17
Weather.....	17

HIGHLIGHTS: House committee reported bill to provide additional authorization for Public Law 480. House subcommittee voted to report bill to extend Mexican farm labor program. Senate committee voted to report third supplemental appropriation bill. House committee reported bill to extend Reorganization Act. House debated minimum wage bill.

HOUSE

- 1. SURPLUS COMMODITIES; FOREIGN TRADE.** The Agriculture Committee reported without amendment H. R. 4728, to amend Public Law 480 so as to provide an additional authorization of \$2 billion during 1961 under title I for sales of surplus commodities for foreign currencies (H. Rept. 196). p. 4417
- 2. FARM LABOR.** The Equipment, Supplies, and Manpower Subcommittee of the Agriculture Committee voted to report to the full committee H. R. 2010; to extend the Mexican farm labor program. p. D193
- 3. REORGANIZATION.** The Government Operations Committee reported without amendment H. R. 5742, to amend and extend the Reorganization Act of 1949 so that it will apply to reorganization plans transmitted to the Congress at any time before June 1, 1963 (H. Rept. 195). p. 4417
- 4. HOUSING LOANS.** The Veterans' Affairs Committee reported with amendment H. R. 5723, to extend the veterans' guaranteed and direct home loan program and to provide additional funds for the veterans' direct loan program (H. Rept. 194). p. 4417
- 5. MINIMUM WAGES.** Continued debate on H. R. 3935, to amend the Fair Labor Standards Act and increase the minimum wage gradually to \$1.25 an hour. pp. 4345-4409

6. APPROPRIATIONS. The Appropriations Committee was granted permission until midnight Fri. to file a report on the Treasury-Post Office appropriation bill for 1962. p. 4343
7. DEPRESSED AREAS. Received an Abilene, Kan., Chamber of Commerce resolution opposing the Douglas area redevelopment bill. p. 4419

SENATE

8. THIRD SUPPLEMENTAL APPROPRIATION BILL FOR 1961. The Appropriations Committee marked up and voted to report (but did not actually report) with amendments this bill, H. R. 5188. p. D192

ITEMS IN APPENDIX

9. FARM LABOR. Extension of remarks of Rep. Cohelan inserting an article, "United States Echoes Migrant Flight," and stating that it points out certain important aspects of the pressing migrant farm labor problem. pp. A2038-9
10. CREDIT UNIONS. Extension of remarks of Rep. Mason discussing his proposed "tax loophole closers" bills to impose income tax on credit unions. pp. A2039-40
11. LIVESTOCK. Extension of remarks of Rep. Shriver inserting an article citing the importance of the livestock industry to Kansas' economy, and stating that "it would be pertinent to place before the Members some of the facts of an industry which flourishes without a program of Federal subsidies." p. A2042
12. SMALL BUSINESS. Extension of remarks of Rep. Evins inserting a statement summarizing the objectives of the Small Business Act and the recent accomplishments in carrying out these objectives. pp. A2050-1
13. DEPRESSED AREAS. Extension of remarks of Rep. Flood inserting a Pa. State press release describing the areas of labor surplus in Pa., and stating that the report underscores the need for passage by the House of the area redevelopment bill. p. A2053
14. PEACE CORPS. Extension of remarks of Rep. Fascell inserting an article, "Kennedy's Peace Corps Could Uplift Youth." p. A2057
15. FARM PROGRAM. Extension of remarks of Rep. Andersen inserting an address by Rep. Weaver on the general subject of farm policy and stating that "it points up the need for a sound and workable policy for the Nation's farmers." pp. A2057-8
16. LABOR STANDARDS. Extension of remarks of Rep. Santangelo inserting an address by Rep. Giaimo discussing the minimum wage law, its proposed increases, extended coverage and proposed substitutions. pp. A2063-5

BILLS INTRODUCED

17. RESEARCH. H. R. 5882, by Rep. Rhodes, Ariz., to provide for a program of weather modification to be carried out by the Secretary of the Interior, acting in cooperation with the National Science Foundation, to increase

The result of the vote was announced as above recorded.

The **SPEAKER**. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER**. The question is on the passage of the bill.

Mr. **VINSON**. Mr. Speaker, on passage I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 412, nays 0, not voting 19, as follows:

[Roll No. 23]

YEAS—412

Abbitt	Cooley	Halpern
Abernethy	Corbett	Hansen
Adair	Corman	Harding
Addabbo	Cramer	Hardy
Addonizio	Cunningham	Harris
Albert	Curtin	Harrison, Va.
Alexander	Curtis, Mass.	Harrison, Wyo.
Alford	Curtis, Mo.	Harsha
Alger	Daddario	Harvey, Mich.
Andersen,	Dague	Hays
Minn.	Daniels	Healey
Anderson, Ill.	Davis,	Hébert
Andrews	James C.	Hechler
Anfuso	Davis, John W.	Hemphill
Arends	Davis, Tenn.	Henderson
Ashbrook	Dawson	Herlong
Ashley	Delaney	Hiestand
Ashmore	Dent	Hoeven
Aspinall	Denton	Hoffman, Ill.
Auchincloss	Derounian	Hoffman, Mich.
Avery	Derwinski	Holifield
Ayres	Devine	Holland
Bailey	Diggs	Holtzman
Baker	Dingell	Horan
Baldwin	Dole	Hosmer
Baring	Dominick	Huddleston
Barrett	Donohue	Hull
Barry	Dooley	Ichord
Bass, N.H.	Dorn	Ikard
Bass, Tenn.	Dowdy	Inouye
Bates	Downing	Jarman
Battin	Doyle	Jennings
Becker	Dulski	Jensen
Beckworth	Durno	Joelsen
Beermann	Dwyer	Johansen
Belcher	Edmondson	Johnson, Calif.
Bell	Elliott	Johnson, Md.
Bennett, Fla.	Ellsworth	Johnson, Wis.
Bennett, Mich.	Everett	Jonas
Berry	Fallon	Jones, Ala.
Betts	Farbstein	Jones, Mo.
Blitch	Fascell	Judd
Boggs	Feighan	Karsten
Boland	Fenton	Karth
Bolling	Findley	Kastenmeier
Bolton	Finnegan	Kearns
Bonner	Fino	Kee
Bow	Fisher	Keith
Boykin	Flood	Kelly
Brademas	Flynt	Keogh
Bray	Fogarty	Kilburn
Brewster	Ford	Kilday
Bromwell	Forrester	King, Calif.
Brooks, La.	Fountain	King, N.Y.
Brooks, Tex.	Frazier	King, Utah
Broomfield	Frelinghuysen	Kirwan
Brown	Friedel	Kitchin
Broyhill	Fulton	Kluczynski
Bruce	Gallagher	Knox
Burke, Ky.	Garland	Kornegay
Burke, Mass.	Garmatz	Kowalski
Burleson	Gary	Kyl
Byrne, Pa.	Gathings	Laird
Byrnes, Wis.	Gavin	Landrum
Cannon	Giallomo	Lane
Carey	Gilbert	Langen
Casey	Gleason	Lankford
Cederberg	Goodell	Latta
Celler	Goodling	Lennon
Chamberlain	Granahan	Lesinski
Chelf	Grant	Libonati
Chenoweth	Gray	Lindsay
Chiperfield	Green, Oreg.	Lipscomb
Church	Green, Pa.	Loser
Clancy	Griffin	McCormack
Clark	Griffiths	McCulloch
Coad	Gross	McDowell
Cohelan	Gubser	McFall
Collier	Hagan, Ga.	McIntire
Colmer	Hagen, Calif.	McMillan
Conte	Haley	McSween
Cook	Halleck	McVey

Macdonald	Pike
MacGregor	Pilcher
Machrowicz	Pillion
Mack	Pirnie
Madden	Poage
Magnuson	Poff
Mahon	Powell
Maillard	Price
Marshall	Pucinski
Martin, Mass.	Quile
Martin, Nebr.	Rains
Mason	Randall
Mathias	Ray
Matthews	Reifel
May	Reuss
Meador	Rhodes, Ariz.
Merrow	Rhodes, Pa.
Michel	Riehlman
Miller, Clem	Riley
Miller,	Rivers, Alaska
George P.	Rivers, S.C.
Miller, N.Y.	Roberts
Milliken	Robison
Mills	Rodino
Minshall	Rogers, Colo.
Moeller	Rogers, Fla.
Montoya	Rogers, Tex.
Moorhead, Pa.	Rooney
Morgan	Roosevelt
Morris	Rostenkowski
Morrison	Roudebush
Morse	Rousselot
Moss	Rutherford
Moulder	Ryan
Multer	St. George
Murphy	St. Germain
Murray	Santangelo
Natcher	Saund
Nelsen	Saylor
Nix	Schadeberg
Noelblad	Schenck
Nygard	Scherer
O'Brien, Ill.	Schneebeli
O'Brien, N.Y.	Schweiker
O'Hara, Ill.	Schwengel
O'Hara, Mich.	Scott
Olsen	Scranton
O'Neill	Seely-Brown
Osmers	Selden
Ostertag	Shelley
Passman	Sheppard
Patman	Shipley
Pelly	Short
Perkins	Shriver
Peterson	Sibal
Prost	Sikes
Philbin	Siler

Sisk
Slack
Smith, Calif.
Smith, Iowa
Smith, Miss.
Smith, Va.
Spence
Springer
Stafford
Staggers
Stephens
Stratton
Stubblefield
Sullivan
Taylor
Teague, Calif.
Teague, Tex.
Thomas
Thompson, N.J.
Thompson, Tex.
Thomson, Wis.
Thornberry
Toll
Tollefson
Trimble
Tuck
Tupper
Ullman
Utt
Vanik
Van Pelt
Van Zandt
Vinson
Wallhauser
Walter
Watts
Weaver
Weiss
Westland
Whalley
Wharton
Whitener
Whitten
Wickersham
Widnall
Williams
Willis
Wilson, Calif.
Wilson, Ind.
Winstead
Yates
Young
Younger
Zablocki
Zelenko

items totaling \$8,876,000 for construction at Westover Air Force Base in my congressional district of Massachusetts.

I am most pleased with the recommendations of the Armed Services Committee and the inclusion of these vitally needed improvement projects for Westover Air Force Base, which is headquarters for the 8th Air Force of the powerful Strategic Air Command. The air base was constructed some 20 years ago for smaller piston engine aircraft. We are now in the jet age and Westover is in need of improvements if the SAC crews and the landing strip are to continue to adequately handle the large jet bombers and tankers.

The construction program for Westover provides for installation of 1,500 feet of U.S. standard approach lights at the secondary end of the primary runway. These lights are essential to the safe recovery of high performance aircraft during inclement weather. More than 35 percent of all aircraft landings are made to this end of the runway.

Also to be installed is a narrow-gage and centerline runway lighting system. This system is one of the essential components of an integrated approach and landing system required for the recovery of high performance aircraft. Floodlights will be installed along the edge of the aircraft parking areas to light 11 aircraft parking spaces. Aircraft maintenance must be conducted on an around-the-clock basis to meet the operational requirements of SAC flying forces. Provision will also be made for 5,000 square yards of open storage pavement for the disposal and salvage yard. There is no existing facility that can be used for this activity.

The largest item for Westover is \$8 million to provide for a combat operation center, the nature of which is classified; while \$26,000 is provided for the fee purchase of 100 acres of land for the combat operations center.

This authorizing legislation also provides for the construction of an addition to the Army Reserve Center in Springfield at a cost of \$111,000. The addition to the present building is needed to provide more space for training Reserve units.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The **SPEAKER**. The unfinished business is the further consideration of the resolution (H. Res. 229) providing for the consideration of H.R. 3935, a bill to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

The Clerk read the title of the resolution.

The **SPEAKER**. The question is on agreeing to the resolution.

The resolution was agreed to.

NAYS—0

NOT VOTING—19

Blatnik	Kilgore	O'Konski
Breeding	McDonough	Rabaut
Buckley	Monagan	Steed
Cahill	Moore	Taber
Evins	Moorehead,	Thompson, La.
Hall	Ohio	Wright
Harvey, Ind.	Mosher	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Buckley with Mr. Cahill.
Mr. Rabaut with Mr. Taber.
Mr. Kilgore with Mr. McDonough.
Mr. Thompson of Louisiana with Mr. Hall.
Mr. Wright with Mr. Moorehead of Ohio.
Mr. Evins with Mr. Harvey of Indiana.
Mr. Monagan with Mr. Mosher.
Mr. Blatnik with Mr. O'Konski.

Mr. **RHODES** of Arizona changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MILITARY CONSTRUCTION BILL

(Mr. **BOLAND** asked and was given permission to extend his remarks at this point in the Record on the military construction bill.)

Mr. **BOLAND**. Mr. Speaker, this legislation authorizing construction for the military departments and Reserve components in fiscal year 1962 contains

SUBCOMMITTEE ON COMMUNICATIONS AND POWER

Mr. MOULDER. Mr. Speaker, I ask unanimous consent that the Subcommittee on Communications and Power of the Committee on Interstate and Foreign Commerce may sit and hold hearings during the course of general debate this afternoon.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

Mr. POWELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3935, with Mr. WALTER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. POWELL] will be recognized for 3½ hours, and the gentleman from Pennsylvania [Mr. KEARNS] will be recognized for 3½ hours.

The Chair recognizes the gentleman from New York [Mr. POWELL].

Mr. POWELL. Mr. Chairman, I yield myself such time as I may require.

(Mr. POWELL asked and was given permission to revise and extend his remarks.)

Mr. POWELL. Mr. Chairman, we are now about to begin our deliberations on H.R. 3935, authored by the gentleman from California [Mr. ROOSEVELT] which contains the proposed amendments of the Fair Labor Standards Act of 1938. As chairman of the Committee on Education and Labor I went before the Rules Committee and requested an open rule with ample time for full debate and consideration of this measure. This was done because the members of our committee, the minority and the majority alike, were in full accord about the importance and significance of this legislation.

Now I want to answer, for once and for all, all criticism directed at the amount of time allocated for these hearings. This gigantic stack of books upon this table represents all the hearings concerning wage hour amendments since 1949. The total number of pages represents the astounding number of 12,000. Just a few months ago, last year, 146 witnesses were heard in 3 months and 1,575 pages of the printed record were necessary to report these hearings. The hearings this year fill a

total of more than 600 pages of the printed record, so that on this specific proposal which the Congress had before it last year and this year, in less than 12 months we have had 2,200 pages of hearings. Anyone who says that this is not enough is only someone who does not believe in any legislation at all and only wanted to use the hearings to conduct a filibuster. We, the members of the Committee on Education and Labor, are not going to allow our committee to be used as an opportunity to delay any legislation by those who are completely opposed to such legislation regardless of what its fiscal form may be. In fact, I would like to point out to the very critics who say that the hearings were not long enough that they themselves refused to bring before the Committee on Education and Labor, in hearings in subcommittee and in full committee, the so-called Kitchen-Ayres substitute, which means that they themselves are guilty of not giving the American citizens and the committee an opportunity to discuss their legislation.

This legislation is one of the major measures proposed by the new administration to clear the economic climate of the smog of recession by stimulating further economic growth. Let no one rise today and say that there should not be a raise in minimum wage and an extension of coverage because we are in a recession because the facts of history belie such an argument. Specifically, the record shows that Congress has twice passed minimum wage legislation in a recession. And each time the increase was followed by improvement in employment.

In the depths of the bitter depression of the thirties, in the year 1938, the original minimum wage law was proposed under the leadership of Franklin Delano Roosevelt, and when that was adopted by Congress there followed a rise in employment rather than a fall. Again in 1949, during a recession and serious unemployment we raised the minimum from 40 cents to 75 cents. I was the conferee from the House on that particular legislation. Again that increase did not aggravate employment difficulties but rather marked the start of a rise in employment. Some critics cite a Government study which showed a 9 percent decline in 1955 when we raised the minimum to \$1. The proof that they cite is entirely erroneous and fallacious because it comes from just one of many Government studies. It is from a survey of a selected segment of the lowest wage industries, and these industries are one in which employment has been declining steadily for years. These industries are work shirts, cigars, wooden containers, sawmilling, and tobacco steaming, and the decline there was due to competition from substitute products and the decline in consumer demand.

Let the truth be told now concerning the 1955 so-called proof. The Labor Department made an exhaustive check and could find no more than 1,800 workers in this entire Nation who may actually have been laid off after the minimum was raised to \$1, in comparison to

2,500,000 low-paid workers who benefited from the increase. Even in the South where the impact of the dollar minimum was the greatest, there was no rise in unemployment insurance claims after the minimum was raised. Still another survey by the Labor Department of the 1955 wage increase indicated that every one of the low-wage communities benefited and prospered after the last increase in the minimum.

Retail employers who would be covered by this legislation contend that even though experience has been favorable in other industries, employment in retailing would go down if they had to meet a minimum wage.

This is totally false. In 13 States a \$1 minimum wage has already been applied to the retail trade and what has happened? In New Jersey, retail employment jumped 8 percent the following month while total employment within the State rose only 1.5 percent. In Vermont, retail employment increased 4.2 percent, while employment in all industries in the State declined 3.7 percent.

Now let us get on with the business of helping America and stop hoodwinking the public with phony statistics and false arguments. A vote for this bill is a vote against the recession, a vote to push our economy forward, a vote to provide greater consumer purchasing power.

Not one scintilla of evidence was produced in the testimony given to our subcommittee this year or last year that modest increases had had any but the most salutary effect upon the Nation's economic progress. The New York Times editorialized this week, "We do not share that fear and neither history nor statistics bear it out. On the contrary, surveys have shown that a higher minimum in low-wage communities has actually stimulated rather than depressed employment."

We have tried to meet the objections of the honest and sincere supporters of this legislation. We will, as this Congress resolves itself into the Committee of the Whole, deal sympathetically with any amendments brought forward by any Member of this body on both sides of the aisle who believes in a better wage and more coverage for the American workingman. But we will resist the efforts of anyone who is against such legislation to try to amend this bill in order to kill it.

Finally, I speak as a representative of the largest city in this Nation and I speak voicing the sentiments of my colleagues all across this country who come from the big cities. We have given our vote to those of you who come from the agricultural sections and now we are asking you to give us your vote for those who come from the urban areas of our country. Firmly and frankly, I would like to say that the vast majority of my colleagues from the urban areas have made up their minds that if we do not get the cooperation from those of you who represent the rural areas that we are going to think twice as to how we will cast our vote on all legislation affecting rural areas beginning immediately, even though such programs may come from

the administration. It was just a few days ago that, reluctantly, many of us, including the present Speaker, voted in favor of the feed-grain bill. We voted because we thought you representing the rural areas needed it. Therefore, we ask you today, however reluctantly, that you give us your vote for this legislation.

Cooperation must be a two-way street.

Mr. ALGER. Mr. Chairman, will the gentleman yield?

Mr. POWELL. I yield to the gentleman from Texas.

Mr. ALGER. Did I understand the gentleman's position to be that we should vote on this bill or any bill not on the merits of the bill itself but rather on some trade-out with Members representing city and rural areas?

Mr. POWELL. No; I did not say that at all. I am merely saying that those of you who come from areas who may not be affected as dramatically as areas that we represent in the cities and urban areas, that we are asking you to vote with us because we believe that this is good for us, just like we voted with those of you from the agricultural areas because you told us it was good for you.

Mr. ALGER. I am glad he did not mean it the way I understood it. I will simply tell the gentleman I am here to listen to his views and the views of others, possibly to present my own view if I feel I am learned enough to participate in the discussion, but let me assure the gentleman that this gentleman is not going to be traded out with anybody and will solely vote on the merits of the bill. And, I thank the gentleman.

Mr. POWELL. I would like to turn the leadership over to the gentleman from California [Mr. ROOSEVELT], for the balance of the debate.

Mr. KEARNS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman and members of the committee, I am very happy to be here and hear the chairman of the full committee, the gentleman from New York [Mr. POWELL] make one appeal to this body—that we think twice before we vote. I hope that the majority and the minority weigh this very carefully, because we not only should think twice but maybe three or four times before we vote.

Mr. Chairman, I do not want to dispute the chairman, but there was a statement that he made that to me was not quite accurate. The minority was never, never consulted as to who the witnesses would be. They had their own agenda. They made it up. They went through it the way they wanted to. We had 3½ days of hearings on a bill that affects all segments of the economy of this country.

Then, upon my insistence, the gentleman from California [Mr. ROOSEVELT] was very kind, after he had called the executive session, to have the Secretary of Commerce come in. He was there with us for about an hour and a quarter, and we interrogated him. And, I think it proper to bring out one point that the Secretary said—and he is a very fine gentleman and very capable, I am sure, or Mr. Kennedy would not have appointed him—but it was his opinion if the

administration bill went through in its present form, it would only be a matter of a few years until everybody in this country would be affected by the ramifications of its provisions.

Now, I am not antiminimum wage, goodness knows. I sat up there and broke the deadlock in the committee from 90 cents to \$1. I am not against considering an increase in the minimum rate; I am not even against considering extension of coverage.

But I would like to refer to the late Gus Kelley. When he was chairman of the Subcommittee on Fair Labor Standards he did extensive research on this important subject, and it was the opinion of the subcommittee on both sides of the aisle that this legislation had such far-reaching aspects that we should have a thorough analysis before getting into intrastate commerce.

And so I appeal to you today, let us not act too hastily. Let us listen to the debate. Let us understand the substitutes, the amendments that we may have before us so that when we go home and answer to our constituents, we will have made a wise decision and one that this country, our great America, will be proud of.

Mr. ROOSEVELT. Mr. Chairman, I yield myself 15 minutes.

(Mr. ROOSEVELT asked and was given permission to revise and extend his remarks.)

Mr. ROOSEVELT. Mr. Chairman, the committee bill, H.R. 3935, has, of course, two major purposes. First, it will raise the minimum wage now received by 4.6 million workers to \$1.25 over a period of 3 years. And second, it will extend the protection of the act to an additional 4.3 million employees, primarily in our large retail and service enterprises.

Mr. Chairman, I would like to say that I have great respect, of course, for the ranking minority member of our committee. We have had a most cordial relationship for many years now. But I think it would be fair to say that when he referred to our late, very much esteemed colleague, Mr. Kelley, that what then obtained might be true. We have taken 4½ years since that time to give further study to the act. And the bill that has now come to you from the committee, I can assure you, has had the most careful preparation. I believe that while it might involve some controversial issues, it cannot be said that those controversial points have not been studied with a great deal of care.

I agree with the distinguished gentleman from Pennsylvania [Mr. KEARNS] that it would be well for each and every one of us to examine carefully the provisions of the bill which some of my esteemed colleagues would have us adopt in opposition to the committee bill. I believe it will be called the Ayres-Kitchin substitute.

You know, sometimes when we come into consideration of this kind of legislation, it reminds me a little bit of the story of one of the elders of a particular church who was charged with the responsibility of trying to get a new pastor for the church. He had considerable

difficulty. One night he had a dream and in the dream he had been able finally to pick a successor pastor.

On the first Sunday on which he appeared in the pulpit the pastor gave a most stimulating sermon and everyone was most pleased with it. And so the next Sunday it seemed that the church was overcrowded because members of the congregation who had not been there the first Sunday decided they better come and hear the new pastor. So again he delivered a most stirring sermon. But to the astonishment of those who had heard it the Sunday before, it was exactly the same sermon that had been made on that Sunday. And when they went up to him and congratulated him, those members who had just heard it, he thanked them very much and said he hoped that they would be back on the third Sunday.

And, of course, everybody was back. And to the amazement of the congregation he again made the same stirring sermon for the third successive time. And this time the congregation was much disturbed, including the elder who had picked him. He went to him and asked him why he did it. He said, "For the simple reason that even though I have delivered the same sermon three times, as I have gone out among my brethren after the sermon, I have found that while they thought my delivery was excellent, somehow or other my words did not have great effect."

That must be, I am sure, the feeling of many people who have heard the basic discussion of minimum wage over and over in this Chamber. But I think no one will deny that today what the committee has proposed fits the needs of our time and that there can be little or no question of the basic, the fundamental economic facts which have produced the need for raising the minimum wage at least to \$1.25, which is being presented by the committee. I note the fact, for instance, that in the previous years, when we raised the minimum wage, the Congress has, on an arbitrary basis tried always to see that a ratio of 50 percent of the average hourly national wage should be reflected in the minimum wage. If we were to go to \$1.25 at this very time we would barely be making—in fact, we would be a little under, that 50-percent ratio.

Because of the times in which we find ourselves, the economic pressures of the times, the committee has decided on the basis of the evidence before it, to suggest to the House that we take this in two steps, 2 years at \$1.15, well under that 50-percent figure, and bring it up after 2 years to the \$1.25, recognizing as we must, that at that time it may not itself be equal to the 50 percent of the national hourly wage rate.

As to the coverage, again we are dealing with the facts of the situation. There was a time when the greatest employment in this country was in industrial concerns, but it is no secret, and is well substantiated, that the greatest employment in our country today has shifted over from industrial concerns, to what you might call the white-collar or blue-collar workers in the retail and

service industries. As a result, we note today from statistics that a large number of people who got less than the minimum wage of \$1 an hour under the present law are in those industries. We know it is necessary to bring those workers under the protection of the act, if they are not to be exploited and if our country, our whole economic system, is not to be denied the purchasing power, without which these individuals working for less than \$1 an hour can hardly contribute to the health and the welfare of our society in a free America.

I think, too, we have recognized in the committee that this would impose somewhat more difficult problems for those concerned, those enterprises not now covered, so the committee again has adopted what is known as the escalation clause. We have not started at the \$1.15, rather we have started with \$1 an hour, and then by successive steps gone to \$1.05, then from \$1.05 up to \$1.15, and in the fourth year we get to the \$1.25.

I hope and believe that there are not too many here today who would want to keep these newly covered employees permanently at any goal which is less than that of their brother workers in industrial concerns. Certainly that would be dividing our country into two classes of citizenship, and I find it hard to believe that any of us would want to do that.

I am sure you know that the substitute to be offered by Messrs. AYRES and KITCHIN would of course leave them at \$1, and it would limit the other people under present coverage to \$1.15, way below the 50-percent figure that has become historic and accepted by nearly everyone who is an expert in this field.

I think it would be well also at this time to discuss the constitutional question involved in this proposal.

I should like to point out to my colleagues that the committee very carefully did not go back to the proposals made last year to extend coverage on a basically different basis from what the present law calls for. You will find in the definition of "enterprise," which is in the bill, that it conforms with the definition many times upheld by the Supreme Court and the rest of the judiciary of our country, as being properly within the power of the Congress to legislate on matters of interstate commerce.

I would add that one of the major differences in our approach is a limitation as to those who would be protected or exempted. We have therefore adopted a dollar figure for this purpose as the most practical way of giving protection to small business enterprises. I would specifically like to point out to the small business community of this country, that we have recognized that they have certain disadvantages which do not apply to large enterprises and which, therefore, gives them the right to certain special considerations. However, I would point out that when the substitute of Messrs. AYRES and KITCHIN comes before you, there you will find an entirely new concept of interstate commerce and the reach of the Congress under the interstate commerce clause.

There, for the first time, has been introduced a concept that only those en-

terprises which have establishments in two or more States, and which have at least five establishments within such enterprise, could properly be said to have an effect on interstate commerce. Now, my friends, that is the radical departure in the labor relations field—one that has never been litigated—and by the simple examination of what it does, you will find it sets up a basic discrimination which, I believe, no one in the House, once they get the facts would want to do. For instance, have not many of you within your own knowledge, as most certainly I have, known of small businesses with small gross sales, which do have establishments in two or more States and which, under the substitute bill, would be covered; whereas the large multimillion retail-service stores, which operate in my State of California, but operate only in the State—or only in the State of Texas or only in Pennsylvania or Michigan—or, indeed, only in the State of Arizona where there happens to be a most important department store—would be covered, while the little fellow would be included.

A little local retail business, for example, operating four one-man delicatessen shops, or shoeshine stands, or beauty parlors in different locations in the city of Washington would be covered by the Ayres bill if it also sought to serve some customers in the suburbs through a shop in Bethesda or Silver Spring or Arlington or Alexandria. The same thing could happen in New York or Memphis or Chicago or Philadelphia or Texarkana or any of the many cities which are located near State lines. It wouldn't make any difference whether the gross annual dollar volume of the whole business was a mere \$25,000 or \$50,000, or whether its operations involved any significant amount of commerce across the State line—it would be covered regardless of how much or how little interstate commerce it does.

Now let us look for a moment at the other side of the coin. The Ayres bill would cover these little businesses but how about the big ones that happen to do business under a single roof or to keep all their branches within the borders of a single State? Here again the Ayres bill totally disregards the question of whether the business does enough interstate commerce to justify Federal wage and hour regulation.

An enterprise doing an annual business of many millions of dollars, whose operations require the production and transportation from many States of immense quantities of goods is left free from the minimum wage under the Ayres bill so long as it is careful not to operate any shop across the State line. Yet its neighbor across the street, which may require only a few thousand dollars worth of goods produced in other States, will be covered if it operates five small shops and one of them is in the adjacent State.

We are supposed to be legislating under the commerce clause. Now we can justify a formula for coverage which has absolutely no relation to the impact of the business on interstate commerce, but depends only on the number of stores

and their geographical location, must be explained by supporters of the Ayres bill. I for one cannot justify it, and while I am not a lawyer, it seems plain to me that the courts will want a better justification than the arbitrary declaration in the bill that these enterprises, regardless of their interstate activities or lack of them, are engaged in commerce or in the production of goods for commerce.

Let us look at a few actual statistics to see how the Ayres bill would not only disregard the impact of a business on interstate commerce as a ground for coverage but would hit the little businessman and let the big one go free.

In 1958, according to the Census of Business, there were over 200 retail companies which had annual sales of less than \$500,000 and operated 5 to 9 establishments in 2 or more States.

All 1,500 of the small establishments of these companies would be brought under the act by the Ayres bill. None of them would be brought under the act by the committee bill.

It is ironic that those who are concerned about the "far reaching ramifications" of the committee bill are sponsoring legislation that would extend Federal regulation into the area of small local businesses.

Now let us look at what happens to some of the giant enterprises whose operations require a huge volume of interstate commerce.

In 1958, according to the Census of Business, there were 4,800 retail establishments which had annual sales of \$1 million or more and which were operated by chain store organizations with outlets in only one State. These establishments had a total of 390,000 employees, and annual receipts of more than \$11 billion. Nearly 2,700 of these establishments, with 280,000 employees, had annual receipts in excess of \$5 million each.

The Ayres bill would not cover even one of these establishments. The committee bill would cover all of them.

Now I have the figures and I will bring them out at the proper time in this debate, to show to you that this amendment, which is going to be proposed, sets up a kind of discrimination which I am sure the Members of this Congress do not want to embark upon, and which establishes a complete reverse of all of the legislative and all of the judicial experience under the minimum wage laws. Therefore, my friends, I hope whatever we adopt and send over to the other body, will be based upon the historic precedents and upon the proven way to legislate on minimum wage legislation. I hope it is not too unfair to draw the attention of my colleagues on the other side of the aisle to the fact, that only recently, testimony before the Committee on Education and Labor was brought out on the very subject of this dollar test, as against what I call the "5 in 2" formula, and I am sure you will remember that in that discussion, and I have the specific colloquy that occurred on the Senate side between then Senator Kennedy and Secretary Mitchell, in which the Secretary definitely stated that after

consideration, the Eisenhower administration reached the conclusion that the "5 in 2" formula just simply was not workable, and that, therefore, they came back and suggested the dollar figure as the proper way to differentiate between large interstate enterprises, and small local businesses. I refer, if you want the citation, to page 31 of the Senate subcommittee hearings on the bill, S. 1135, and other bills before the Congress at that time. It is a most interesting colloquy. I hope you will have the time to read it because, I think, when you do, you will find that even the Republican administration after careful study rejected the formula to be proposed by Messrs. AYRES and KITCHIN.

Mr. Chairman, I think we now come down to the basic question before us and that is a constitutional one. On this I would refer you to a memorandum which appears in the RECORD of yesterday. A reading of that convinces me that there simply can be no question but that we have followed a perfectly proper formula. But if you have any doubt about it, I would further call your attention to the fact that when many of my colleagues in the House voted for the Landrum-Griffin bill not too long ago, some of you will remember you gave specific acceptance and congressional sanction to an administrative regulation by the National Labor Relations Board. The Board operated under their regulations that they would accept jurisdiction generally on the basis of a \$500,000 figure although for some businesses it was less. They established that criterion for the assertion of jurisdiction.

May I point out that this practice in itself has been specifically upheld in many court decisions. The NLRB has been acting under this very procedure for years; and, as far as I know, there is nothing discriminatory about it, and certainly nothing unconstitutional.

Lastly, Mr. Chairman, the argument is made that some future Congress may decrease the \$1 million figure to \$500,000, or maybe down to \$1. All I can say to you is that none of us here on this floor know or can control what any future Congress will do. We must rely upon good sense, as well as the judiciary, to say at some time in the future that if proposals are made to go below that amount which has a true effect on interstate commerce, the Congress and the courts will stop you; but if there is a true impact on interstate commerce, then the Congress has the legal and constitutional right to act.

Our judgment in committee today, after executive consideration, is that there is no question that a \$1 million figure is the practical and realistic figure, upon which coverage should be based; provided—let me emphasize—that we can always show that the individual employee has a direct connection with interstate commerce. If he does not, then his enterprise will not be covered. There is no question about the constitutionality of such an approach. So, Mr. Chairman, in my humble opinion, if you examine the committee bill, you will find that the bill is a moderate and reasonable one, extending cover-

age to millions of our citizens, while being mindful of the problems of the small businessman.

Mr. LANDRUM. Mr. Chairman, will the gentleman yield?

Mr. ROOSEVELT. I yield.

Mr. LANDRUM. The gentleman referred to the so-called Landrum-Griffin Act, the Reporting and Disclosure Act of 1959, as justification for using a dollar volume to establish wage-hour jurisdiction. His argument, in my opinion, is refuted by a careful reading of section 701 of this act. I read:

Section 701(a) * * * The Board, in its discretion, by rule or decision or by published rules adopted pursuant to the Administrative Procedure Act, decline to assert jurisdiction over any labor dispute involving any class or category of employers where, in the opinion of the Board, the effect of such labor dispute on commerce is not sufficiently substantial to warrant the exercise of its jurisdiction: *Provided*, That the Board shall not decline to assert jurisdiction over any labor dispute over which it would assert jurisdiction under the standards prevailing on August 1, 1959.

The necessity for that provision, as the gentleman well knows, was that in passing the National Labor Relations Act, the Congress conferred upon the Board, jurisdiction of disputes in labor and management relations.

When the Congress originally conferred jurisdiction on the National Labor Relations Board, to handle cases involving disputes between labor and management and for many years thereafter, the Board did not have too much business. After a few years, however, the volume of cases coming to the Board increased in such great numbers, that it could not properly and expeditiously handle them. So the Board decided to set up some criteria by which to establish and limit jurisdiction. In doing so it adopted, among other things, the dollar volume to which the gentleman has referred; and for a long time we went along with that criterion in utilizing the processes of the National Labor Relations Board. If the Board refused a case, State courts could act. Then came *Gus v. Utah Labor Board*, 353 U.S. 1 (1956) in which the U.S. Supreme Court decided that State courts did not have jurisdiction to act and could not settle such disputes. That left for a long period of time a no-man's land, in which people with cases that did not meet with the rules and regulations under the Administrative Procedures Act of the National Labor Relations Board had no forum to which to go. Faced with the proposition and with the fact that thousands upon thousands of businesses in America were without a forum in which to settle disputes, the Congress in writing the Labor Management Disclosure Act of 1959 merely said to the Labor Board: "All right, if you must have criteria by which you will accept or decline cases, you may do so as the Supreme Court has approved, but if you do decline it is all right for the State courts to take over." That is all the Landrum-Griffin Act did. It gave no recognition to any dollar standard and any analogy to the dollar volume of business to establish jurisdiction in wage-hour matters is, in my opinion,

completely erroneous and entirely unrelated to the problems we are discussing.

I think the gentleman for giving me his time.

Mr. ROOSEVELT. Mr. Chairman, I will answer in the words of the gentleman himself, because he explained to you that in the act to which he refers, Congress has told the National Labor Relations Board that it can make monetary regulations regarding its jurisdiction. It then issued regulations as it affects interstate commerce, and came up with a \$500,000 figure. If that is not a non sequitur I do not know my Latin. No one has attacked that \$500,000 figure as being an improper exercise granted by the Congress in order that the Board handle cases involving interstate commerce. If it is proper for the Board to administratively have a monetary figure of \$500,000, surely it is constitutional for the Congress to set a figure of \$1 million by statute.

I think that is the answer to the gentleman's question, and I think he will want to discuss that in his own time.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. KEARNS. Mr. Chairman, I yield 15 minutes to the gentleman from California [Mr. Hiestand].

Mr. GRIFFIN. Mr. Chairman, will the gentleman yield?

Mr. Hiestand. I yield to the able gentleman from Michigan.

Mr. GRIFFIN. I would like to add briefly to the colloquy that just took place between the distinguished gentleman from Georgia [Mr. Landrum], and the distinguished gentleman from California [Mr. Roosevelt]. First of all, the 1959 Labor Reform Act did not fix any particular jurisdictional standards for application by the National Labor Relations Board. Tomorrow, if it sees fit to do so, the National Labor Relations Board could change the jurisdictional standards now in effect and, conceivably, could utilize an entirely different basis, throwing out the dollar volume test. The National Labor Relations Board, on its own, without any directive or approval from the Congress, has set up a dollar-volume test. In the 1959 act, we provided only that when the National Labor Relations Board refuses to take jurisdiction of a case, whatever its grounds or whatever its basis, whether it is dollar volume or any other reason, there will be a forum for litigants with disputes in the labor relations field.

Mr. Hiestand. I am glad the gentleman clarified that point. I am sure everybody agrees that it is very important.

Mr. Chairman, the bill before us today is, in my humble opinion, unutterably bad. I shall confine my remarks to the bill itself rather than to the proposed substitutes, because this is what is before us, and I think we should know when we come to vote on a substitute that we are voting against a very, very bad bill. And, I think we can tell our constituents just how bad this bill is if we decide to vote against it.

I hesitated a little bit to come before you at this time after these very brilliant

dissertations of several of my colleagues. I am just a businessman, and I do not share their abilities. However, I am in dead earnest on this thing.

Mr. Chairman, at a time when President Kennedy and his big staff are crying "recession" and advocating anti-recessionary measures, a prorecession measure comes before us. At a time when the banks are out of debt, there is plenty of money in circulation at reasonable costs, and employment is close to record high, the only basis for this "recession" cry is unemployment.

At this very time there comes before us a bill which, according to all testimony, some reluctant, I might add, would increase unemployment. Certainly, this is true directly in the lower income group, which the President professes to want to help.

I submit, Mr. Chairman, that this bill, H.R. 3935, introduced and sponsored by the gentleman from California, would in effect doublecross these very low income people the sponsors claim they want to help.

Many thousands of marginal workers, either senior citizens, semihandicapped either physically or educationally, including, of course, youthful beginners and college students with little experience, would be thrown out of work if this vicious bill is enacted.

A spokesman for a Pennsylvania community with a high unemployment rate has testified that minimum wage legislation "would cause people in our town to lose their jobs." He said,

Please do not undo * * * the work we have done to help ourselves.

The bill as I have said would worsen unemployment by throwing marginal workers out of jobs. And marginal workers have much difficulty in finding new jobs. As testimony in committee reveals, the Kennedy plan promises inflation and an upset of cost and stability levels.

Even our balance of payments problem is affected, it was testified. For a sharp boost in the minimum wage almost automatically means a higher cost of production, further pricing us out of the foreign market.

Any measure which would raise the cost of production raises the cost of living. Thus, the apparent increase of the minimum wage would soon be eaten up by the increased cost of living. This increased cost of production would come about, according to the testimony of union leaders and many others, by the maintenance of the wage differential between the lowest income group and those higher. It would be passed along all the way up the line, and competing industries, of course, would have to adjust their wage rates or lose their employees.

They would have to pay the going wage. So this would be a colossal increase all the way along the line. It would be a temporary benefit, because it would soon be caught up in the increased cost of living.

This increased cost of living, as I have said, is putting us further out of competition with imports, already a serious factor causing unemployment in many

lines. So there would be more unemployment there.

Just why, Mr. Chairman, do you suppose the proponents are promoting this kind of bill just now? Either they are unconcerned about unemployment or they are convinced, contrary to the testimony, that it will not be increased. Surely they do not want to damage the low-income people for the sake of a vote-getting gadget. Or can it be that they are intent upon building big government, ever bigger, as this measure surely would do?

Mr. Chairman, this measure has several vote-getting gadgets in it and some jokers. On one page it exempts any employee employed as a driver or driver's helper making local deliveries in pursuance of an agreement made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board. This, Mr. Chairman, is what we call the Jimmy Hoffa joker.

As everybody knows, there is a vast number of industries that hire their own truckers, or some one of the independent truckers, of which there are thousands. They would have to call for a union election in order to be certified by the NLRB. In other words, only members of the Hoffa union are exempt.

As everybody knows, Jimmy Hoffa's Teamsters Union controls the vast majority of truckdrivers. Is not this unfair and discriminatory clause a clause forcing membership into Jimmy Hoffa's union? It is just one of the many inequities in this abominable bill.

There are a lot of other things about it I should like to mention. When we were before the Committee on Rules we were trying to clarify several definitions; for instance, the definition of "enterprise." We compared it with the last year's definition, and finally a member of the committee made this comment: "Well, it looks like a bird's nest to me and I might even say a last year's bird's nest. It is as clear as a last year's bird's nest."

I suggest that defining interstate commerce purely on the grounds of the size of the business as reflected in dollars is not only a completely fallacious definition, but a very dangerous one. If we pass this bill, thus setting up another definition of interstate commerce, it will later, when the minimum limits are lowered, as it is freely admitted by some of the proponents they will be, enable your Federal Government to go into every business in the land, even to the corner bootblack, and regulate wages, hours, overtime, et cetera. This means, eventually and inevitably, of course, regulation of prices, also. Is that what we want to legislate?

Mr. Chairman, I am sure that every Member here is concerned about the vast and increasing size of this Government, its colossal cost and power. The Supreme Court has sustained the legality of certain definitions of interstate commerce. In the case of *U.S. v. Wrightwood Dairy Company* (315 U.S. 110-1942), it ruled that the power to regulate commerce includes the power to regulate both the operations which pre-

cede as well as those which follow commercial intercourse itself, provided that such operations are deemed by the Supreme Court to be capable of "affecting commerce among the States." That was a broad power sustaining the enactment of the Fair Labor Standards Act in 1938. This decision was based on a legislative finding that the existence of certain labor conditions in manufacturing industries engaged in commerce—

First. Caused commerce to be used to spread and perpetuate substandard labor conditions among the workers of the several States.

Second. Burdens commerce and the free flow of goods in commerce.

Third. Constitutes an unfair method of competition in commerce.

Fourth. Leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce.

Fifth. Interferes with the orderly and fair marketing of goods in commerce.

In this and other decisions the Court and Congress both recognized that it was the "use of facilities of interstate commerce in spreading substandard labor conditions" that gave constitutional authority to the Labor Standards Act. The Court has never held that Congress had the authority to prescribe minimum wages or maximum hours in industries other than those clearly in interstate commerce.

H.R. 3935 is a sharp departure from the historical application of Federal power. It is proposed to subject to Federal regulation any entire enterprise which has one or more employees, who handle, sell, or otherwise work on goods "that have been moved or produced for commerce by any person." The industry does not have to affect commerce as in the Fair Labor Standards Act. All employees of the enterprise would be governed by Federal standards simply because one or more of them happened to handle goods that have been moved or produced for commerce.

Think how far reaching that would be.

Mr. Chairman, when goods have reached a retail establishment they have come to rest. They are no longer a part of interstate commerce. They have become local property and subject exclusively to local control. When goods are in transit, they would seem to be subject to Federal regulation, but when they arrive Federal control should end. At least, that is the lesson to be learned from the Supreme Court decision in *Walling against Jacksonville Paper Co.* back in 1943.

The exemptions under this bill, based as they are on the dollar sign, introduce an entirely new principle.

It was freely admitted that the million-dollar limit was set on the basis that those enterprises could afford to pay more money. Yet the hotels, according to testimony before the Rules Committee, were exempted because although they were over a million-dollar volume, they could not afford it. May I suggest, Mr. Chairman, that they were exempted, as was freely admitted by several other proponents, because they were organized and articulate and strong and had

much strength in opposing the bill. So far as we can tell, all of the other list of exemptions were exempted simply for political expediency, and the million-dollar minimum was set because "this is the most we can get away with." Is that a good, sound basis upon which to legislate?

If we are legislating on the basic principle of what is best for the country, why do we lower ourselves to legislate on ability to pay or political expediency? Such a concept of ability to pay introduces a new and flexible constitutional authority, one which can be exercised without limit under the guise of regulating commerce within the States.

A dollar sign cannot serve as the trigger point for constitutional authority or limitation, nor can a dollar sign be permitted to eliminate our Federal system. If we pass this bill, we take a long step toward big government by tearing down the limitations in the Constitution. The Founding Fathers indeed were wise. They feared tyranny, the tyranny of big government. They wanted the Government to be the servant of the people, not the master. Here we would give a bureaucrat authority almost unlimited.

This bill is not designed to help the unfortunate, the low-income worker. It would hurt him. It is designed, in my judgment, either as a vote-getting gadget or a builder of big government. In either case I am opposed to it, and I am opposed to it every inch of the way.

Mr. ROOSEVELT. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania [Mr. DENT].

(Mr. DENT asked and was given permission to revise and extend his remarks.)

Mr. DENT. Mr. Chairman, there has been a great deal of criticism aimed at the chairman of our subcommittee because it has been said that not enough time was given to the opponents of this legislation. I think that the chairman of the full committee, the gentleman from New York [Mr. POWELL], covered that subject very well. If any person wanted to take the time to read the record of the hearings we held, I am sure he would have to run for reelection in order to be here to vote by the time he finished reading it.

However, when you give time to people and representative organizations, that is not tabulated in the hours that the committee spends on a subject. I am sure that the chairman, like the rest of the members of the committee, has met with representative groups both pro and con in his home district and here in Washington.

I want to say at this time, after discussing the matter, we felt there was sufficient coverage in the bill to take care of the situation. However, at this time I would like to interrogate the sponsor of the bill, if he would permit himself to be interrogated.

I direct my question, of course, to our distinguished colleague, the gentleman from California [Mr. ROOSEVELT]. Some questions have been raised about retail service businesses regarding the overtime exemption, which appears on page 39,

line 22 of your bill. That provision, as you know, exempts from overtime requirements any employee whose regular rate of pay is 1½ times the minimum rate applicable to the employee, and more than one-half of his compensation for a representative period comes from the commissions.

What, in your opinion, might constitute a representative period which would qualify an employee under this provision?

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from California.

Mr. ROOSEVELT. The gentleman from Pennsylvania, I think, knows we have provided in the bill that a representative period shall be in no event less than 1 month, and in some cases, of course, from the testimony and the discussion with the Secretary of Labor, we know it could be as much as a year. I think it is important to bear in mind that the committee has been assured, and in the colloquies we had with the Secretary of Labor and his colleagues, that in the event the bill is enacted, it will hold hearings immediately looking to the issuance of general regulations upon this very matter.

But he is never very disturbed by the provisions of the bill which say that a representative period shall in no event be less than 1 month.

I also say to the gentleman that I am happy he brought out that we specifically wrote into the bill that those in executive positions who are beginning to learn the business and are on their way up, as well as others who perhaps have advanced to some degree may have up to 40 percent of their time devoted to nonexecutive duties. We used this for a very specific purpose and upon the representation of reliable people in the retail industry who pointed out their particular need for this kind of exemption, and because of the fact that in the administration of the present act as it is now written there is a limitation of 20 percent, yet in our bill we have in the retail field extended it to 40 percent.

Mr. DENT. I thank the gentleman from California.

The reason I brought this point out so it would be contained in the RECORD was because people get mixed up oftentimes because of the confusion that is created by the many different interpretations of just what the law does or does not do. I do not think there is any organization interested in this legislation that has done more to confuse the issue than this group of State associations and national associations that put out this particular booklet containing, mind you, reprints, photostatic copies, of every editorial they could pick up in the country, all aiming to prove that the passage of this act will decrease employment.

It has been my experience to find that no one employs more help than they need, and they employ no less than is required to do the job. That holds true whether you pass this piece of legislation or not. There is not a retail merchant in the country who would let sales

go by the board because of a refusal to put on sufficient help on account of the passage of a bill that raises the pay to a \$1 minimum. The \$1 minimum is not the argument that is being advanced here by these individuals honestly representing the retail industry. There has been no argument advanced by any of the retailers in my particular area on the question of the dollar; and I will show you why. These figures do not come from me. Let us read what a chainstore magazine says about retail wages:

All States and the District of Columbia regulate the working conditions of store employees in whatever form is required. Twenty-nine States regulate wage rates. But some States like Michigan, Illinois and Indiana do not provide wage controls. Does this mean that retail employees in these States are unprotected? Let's look at the record: According to the last census, New York State retail workers, protected by a "model" minimum wage order, earned an average of \$61.50 for a full workweek. In Illinois, where there is no State wage minimum, the average comparable weekly pay was \$63.69.

And then, just a couple of paragraphs later—I do not want to bore you by reading all of these statistics. The article states:

But there are States where the wage level is lower. Take Mississippi. It has no minimum wage order. As of November 1958, the average weekly retail wage in the State was \$47.50.

If that is true how can this organization which purportedly represents the retail enterprises and establishments in the United States say that increasing the minimum wage to \$1 will deprive people of employment opportunities?

Why, even in Mississippi, which cannot in any way measure up to the wage levels paid in the industrial north, the retail help is paid an average of \$47.50 according to this magazine article appearing in Current Comment. Misinformation and misrepresentation have been the stock in trade over the years of many who try to destroy a forward movement by telling an untruth.

On this floor a few minutes ago one of my respected colleagues referred to what he called the "Hoffa amendment." I can only believe that he was referring to that in order to cast on that particular amendment some kind of a cloud that is not there, and he knows it is not there. That amendment was asked for by a respected Member of this Congress, not a member of our committee, who has spoken on this floor against Mr. Hoffa and his teamsters. It was asked for because of a condition that is true in every community in America.

Where local deliveries are made it is impossible to measure the exact overtime that is due to a truck driver or delivery man when you and I know that mechanical failures, tire blowouts, traffic tieups, make the actual working period one that cannot be determined. They all work on a daily rate of pay, not on an hourly basis. This amendment is an honest effort to protect employers in communities where daily deliveries are made. I might say to you I am surprised that you are going to take

it out because you are going to do a favor to Jimmy Hoffa because he has never asked for any amendment or consideration before our committee.

Mr. HIESTAND. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from California.

Mr. HIESTAND. I agree, of course, with the gentleman from Pennsylvania that a vast number of deliveries are made by small people with one or two drivers, and so forth, and that the wage arrangement is made by trips. That has to be so. The gentleman is substantially correct. My point was it was specified in the committee bill it had to be recognized by the National Labor Relations Board which means being forced into unions. The National Labor Relations Board cannot certify without an election. You see the burden that is put on small operators. There is no other implication except that stated.

Mr. DENT. Why did the gentleman call it the Hoffa amendment when he knew, and I told him it was introduced at the request of a respected Member of the House? I had never seen the amendment until 5 minutes before it was introduced.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. ROOSEVELT. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. DENT. Mr. Chairman, I only wanted to bring that out to point up the fact that the mass of this misinformation that is being given out is in order to confuse you as to the basic issue. I will put in the RECORD the misinformation put out about the Pennsylvania minimum wage law by the same organization which tries to show that employment in Pennsylvania retail establishments particular has been reduced because of the passage of the Pennsylvania minimum wage law. I have here a complete and detailed account of the operation of that law first put into effect in 1959 with a dollar minimum in the cities of Pittsburgh and Philadelphia and an 85-cent minimum in the rest of the State. Now the entire State after 2 years of operation has been on the dollar minimum.

This information, if you will take the time to read it, will show that on every specific point made by the publishers of misstatements and untruths, in every instance that they called attention to, is belied by the facts in the records in the Commonwealth of Pennsylvania.

Now, Mr. Chairman, it might be good for all of us to recognize that this is just another drive toward meeting that goal that was set out many years ago, a living economy in America, where everybody participates in it; where all of the people, the lesser and the great, all can at least have the minimum requirements of our way of life. All of us know, without any question of doubt, that a \$40 a week pay check cannot possibly pay the necessary cost of the living standards that we have in this country today. It costs just as much for a person earning 40 to 45 cents an hour to buy a loaf of

bread or a pair of shoes as it does to a Member of Congress at \$22,500.

Mr. Chairman, I believe in the capitalistic system of government, but I believe that it has responsibilities; that in order to maintain a capitalistic form of government in this day and age it must assume and practice those responsibilities. The least among us must, if we work, must earn at least a minimum rate of pay. One dollar is not enough for the requirements of a family; in fact, a family of 6 children, with a mother and father, drawing direct relief today in the State of Pennsylvania will get more money than we are setting up under a \$1 minimum in this act. Sometimes in talking about persons on relief, some of you say they do not want to work. Why, you pay them more not to work than you are willing to pay them to work.

Mr. Chairman, the time has come when we must face realities. We have in this country 21 million Americans not covered by the protection of a maximum hour and minimum wage bill. The gentleman from California [Mr. ROOSEVELT] is trying at this time, through his sponsorship, with the help of a great many Members of this Congress, to cover at least 4 million more that are not covered today. It will be many, many years before we ever achieve the ultimate and see to it that each and every worker in this country earns at least a minimum income if he works.

Now, this is important, and I want you to hear it. There are those who are great free traders in our midst, and they say that we must never close our borders, no matter what happens to our employment in industry; that we must go overseas and raise the standards and raise the minimum wage of the Chinese, the Japanese, the Hong Kongese, and Taiwanese and the rest of our competitors, while here in America, with an enlightened, civilized country such as we have, there are still 21 million Americans not protected by minimum wage laws. Yet many of you tell me in private conversation that you think we are going to be able to raise the standards of the 11-cent-an-hour workers in other countries.

Mr. Chairman, much publicity is being given to a survey by the Pennsylvania Retailers' Association purporting to show that retail employment in Pennsylvania declined as a result of a \$1 minimum wage made effective by that State.

After having analyzed the reliability of that survey, I find it thoroughly unreliable; first, because the survey sample is suspect; second, stores which did not respond were not checked; third, the payroll period surveyed was unrepresentative and employment was affected by severe weather in the week of the survey; fourth, stores reporting a decline were not queried on why it occurred and no check was made of employment change in the same period in other years; and fifth, no distinctions were drawn between part-time and full-time employees.

These are some brief technical comments on the survey by the Pennsyl-

vania Retailers' Association of the employment effects of the \$1 retail minimum wage in Pennsylvania. This is the survey described in the statement presented by John Means of that association to the Senate Subcommittee on Labor on March 3.

Pennsylvania raised its retail minimum wage outside Philadelphia and Pittsburgh to \$1 an hour starting January 15, 1961. The \$1 had been put into effect in Philadelphia and Pittsburgh 2 years earlier, in January 1959.

The retailers' association survey collected employment data from selected stores outside Philadelphia and Pittsburgh for the week just before the \$1 minimum became effective and for a week 3 weeks later. The survey results showed a decrease of employment of 6 percent, which the retailers' association concludes is largely the result of the higher minimum wage.

The association's statement does not fully describe the technical procedures used in this survey, but even from the limited information it does provide, it is quite clear that its survey and the interpretation the association has drawn from it are thoroughly unreliable. Its principal failings are these:

First. The makeup of the sample is suspect. The statement contends that the survey's sample of 3 percent of all retail employees is of adequate size. It is indeed true that 3 percent can be an adequate sample, but the test of reliability is not merely size but the makeup of the sample. If properly stratified, a small sample can be representative of the whole. But the sample here is composed of stores belonging to the association; there is no statement of whether they are all the member stores or, if not, how these particular stores were selected.

Second. In any event, responses came from only a portion of those sent a questionnaire. The statement does not report just what proportion of those receiving a questionnaire answered, but does acknowledge a large nonresponse. Any sound survey must examine nonresponse and the reasons for it to determine if it masks a different picture than that reported by respondents.

It is not difficult to imagine that some stores with favorable employment experience, and well aware of the purpose of this survey, simply refrained from replying so as to avoid changing the picture the association might present.

Third. The representativeness of the payroll period surveyed is also questionable. The survey used the week ending February 4, 1961, as a measure of employment after the minimum wage was increased. Is this an appropriate week? We do not know, and the association statement does not seek to justify its selection, but we are aware that the weather was extremely bad that week in Pennsylvania and severe weather would normally curtail sales and to some extent employment as well. Such an employment decline would of course be unrelated to the minimum wage.

Fourth. Since the survey was supposed to measure the effect of the minimum wage on employment, it was der-

elict in not examining why employment declined in the responding stores.

Particularly, it should at least have inquired about employment in the same January to February period in earlier years, so that it could determine how much of any employment change is purely seasonal. Ordinarily, retail employment falls off merely for seasonal reasons between December and February.

The survey also fails to provide information on the extent to which employees laid off were part-time or full-time workers. In the case of the 376 national chainstore units, the survey figures show a decline in employment from January to February of 10 percent as against a decline in total hours of only 3.6 percent, which would indicate that workers then laid off were principally part-timers—whose layoff might be due to the customary practice of reducing the part-time workforce in February rather than to any effects of the higher minimum wage.

Fifth. For these reasons it is not possible to rely on the results of the Retailers Association survey nor is it possible, even if the survey figures are accepted, to draw the conclusion that decline in employment totals was due to the increased minimum wage.

The association's contention that an increased minimum adversely affects employment should also be measured in light of the fact that it ignores entirely the earlier experience with minimum wages in its State. Retailers in Philadelphia and Pittsburgh, who account for over 60 percent of retail employment in the State, readily adjusted to the \$1 minimum wage in January 1959 and retailers elsewhere in the State adjusted equally readily when an 85 cents minimum wage was applied to them at the same time.

One of the major arguments of opponents of minimum wage improvement is that it would cause unemployment and worsen the present recession period problems.

For proof they cite a Department of Labor finding that employment declined 9 percent in parts of some low-wage industries after the minimum wage was raised to \$1.

Experience proves, however, that this argument has no merit. Past minimum wage improvements have not adversely affected employment—and indeed, usually have helped stimulate a general upturn in employment. Specifically, the record shows:

First. Congress has twice passed minimum wage legislation in a recession period. Each time the increase was followed by improvement in employment.

The first time, in depression year 1938, the adoption of the original minimum wage law was followed by a rise rather than fall in employment. Again, in 1949, during a recession and serious unemployment, Congress raised the minimum—from 40 cents to 75 cents. That increase did not aggravate employment difficulties, but rather, marked the start of a rise in employment.

Second. Why did a Government study show a 9 percent employment decline after the minimum was again raised—

to \$1—in 1955? This decline is being misinterpreted by opponents of minimum wages.

First, the 9-percent figure comes from just one of many different Government studies. It is from a survey of selected segments of the lowest wage industries; second, these industry segments are ones in which employment has been declining steadily for years—regardless of minimum wage movements; third, the real reason for the decline in these industries—such as workshirts, cigars, wooden containers, sawmilling, and tobacco steaming—is principally such factors as technological change reducing manpower needs, decline in consumer demand, and competition from substitute products. The increase in the minimum wage in itself, as the Department of Labor's studies themselves specifically acknowledge, was a rather small, and in most cases, negligible factor in their decline in employment. Finally, other Government surveys could not find adverse employment effects as a result of minimum wage improvements.

Third. One of the other surveys was an exhaustive check by the Labor Department of every report of an adverse effect. This search could find no more than 1,800 workers in the entire Nation who may actually have been laid off after the minimum was raised to \$1—and this should be related to the 2½ million low-paid workers who benefited from the increase to \$1.

Fourth. Another Government survey examined what happened to unemployment insurance claims. It found that, even in the South, the region where impact of the \$1 minimum was greatest, there was no rise in unemployment insurance claims after the minimum was raised. Thus, any employment declines in low-wage industries, for whatever reason they occurred, were offset by expansion in employment due to the increased buying power the \$1 minimum provided for low-wage families.

Fifth. Most striking, however, are the findings of still another Labor Department survey, which focused on low-wage communities before and after the increase to \$1. These communities—six were studied in detail—were ones in which large proportions of workers had to be given wage raises because of the new minimum. The surveys found the net effect of the higher minimum on a communitywide basis was to stimulate employment rather than depress it.

Every one of the low-wage communities benefited and prospered after the last increase in the minimum. In the 3½ years after the increase employment in these communities rose 20 percent in affected industries and 14 percent in industries not covered by the minimum wage law—a period in which employment in the Nation as a whole increased only 2 percent.

Sixth. Retail employers, who would be covered by the Federal minimum wage under the legislation now before Congress, contend that, even though experience has been favorable in other industries, employment in retailing would go down if they have to meet a minimum wage.

This argument has been disproved, however, by a study of the official employment statistics in the 13 States in which a \$1 minimum wage has been applied to retail trade. The study found that in every one of these States the retail industry has adjusted without unfavorable employment effects. Indeed, retail employment usually increased, or held up better than in other industries in the State, after adoption of the retail minimum wage.

Two specific examples: In New Jersey, when the retail minimum was raised to \$1—from 60 cents—retail employment jumped 8 percent the following month—the usual seasonal increase was only 3 percent—and increased 3.4 percent the following year—when total employment in the State rose only 1.5 percent. In Vermont, adoption of the \$1 minimum was followed by a retail employment increase of 4.2 percent in the following year, while employment in all industry in the State was declining by 3.7 percent. A complete analysis of this study of retail employment experience in the States with a retail minimum wage is available on request to the AFL-CIO department of research.

Employment data from Government sources are available for 13 States in which a \$1 minimum wage has been applied to retail trade. Only 2 other States have a \$1 retail minimum—Alaska, \$1.50 minimum, and Hawaii—but employment data are not available.

This memorandum presents the retail employment data for each of these States before and after the \$1 retail minimum wage.

On the basis of analyses of these data, it can be stated categorically that the retail industry has adjusted to statutory minimum wage requirements without unfavorable employment effects and indeed usually with an increase in employment.

In not even one State is there the slightest evidence that requirement of a minimum wage has led to a decline in retail employment.

Although available data vary and the date the \$1 minimum was adopted differs from State to State, the picture that clearly emerges can be summarized as follows:

First. The minimum wage for retail trade has been accompanied by employment experience at least as favorable, and usually more favorable, than in other industries in the same period.

Second. Employment in retailing has generally risen after an increase in the minimum wage, in some cases quite sharply. The exceptions to this finding occurred in connection with the 1958 recession and even then the recession-caused declines in retailing were less than in other industry.

Third. Employment data for the month following application of new retail minimum wages nowhere indicates any precipitous decline because of the minimum wage. Where there is an employment decline, it is in line with, or not as severe as, usual seasonal downturns for that time of year.

It is, of course, not possible to attribute employment changes merely to an

increase in the minimum wage. Nonetheless, typical experience has found retail employment moving favorably after an increase in minimum wages. Here in brief are several specific major examples of favorable employment experience following on the heels of an increase in the retail minimum wage:

First. In New Jersey, an increase in the retail minimum to \$1—from 60 cents—was followed by an 8-percent jump in retail employment the next month—although the usual seasonal increase would have been less than 3 percent—and by a 3.4-percent increase in annual retail employment the following year—even though total annual nonfarm employment in the State rose only 1.5 percent.

Second. In California, the \$1 minimum for retail trade was made effective at the end of 1957 just as the 1958 recession was underway. Total nonagricultural employment in the State declined 7.5 percent the following year, but retail employment held up, declining less than 1 percent.

Third. In New York State, retail employment rose 2.1 percent in 1957—the retail minimum was raised to \$1 in February of that year—although at the same time employment in all other nonfarm industry in the State declined 2.3 percent.

Fourth. In Vermont, the \$1 minimum was made effective in October 1959. Retail employment in the following year rose 4.2 percent, while employment in all nonagricultural industry fell 3.7 percent.

Fifth. In the State of Washington, retail employment in 1959, the year the minimum was raised to \$1—from 65 cents—increased by 4.5 percent and increased another 3 percent the following year, almost twice the rate of employment increase in other industry in the State.

The following pages present, for each of the 13 States with a \$1 minimum for retailing (a) a very brief summary of retail employment changes in the year and month following the effective date of the minimum wage and (b) the actual employment statistics before and after the date of the new minimum wage.

All the employment data are from the Bureau of Labor Statistics of the U.S. Department of Labor.

The 13 States for which such data are available are: California, Connecticut, Maine, Nevada, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, and Washington.

CALIFORNIA

A \$1 minimum wage was made effective for retail trade in California at the end of 1957—November 15, 1957. The former minimum was 75 cents.

Examination of employment data shows that retail employment held up well despite a general downturn in other industries brought on by the general economic recession, in 1958. Specifically:

First. Annual employment in retailing held almost steady after the increase in the minimum even though total employment in the State declined markedly because of the 1958 recession. The figures show a 7.5-percent decline in all nonagricultural employment in 1958, but retail employment dipped less than 1 percent.

Second. In the month in which the minimum was raised to \$1 and in the following months—November and December 1957—months in which the 1958 recession was already well underway, employment in retailing nevertheless remained higher than in the same months the preceding year.

Third. A comparison of the short-run employment change, from the month before—October—to the month after—December—the increase in the minimum shows almost the usual seasonal upturn at this time of year—9.2 percent versus 11 percent the year before and 9.4 percent the year after—even though the recession falloff at the end of 1957 might have been expected to produce a marked retail employment decline.

One dollar minimum wage for retail trade effective November 15, 1957:

Annual employment

	Employees (thousands)		Percent change
	1957	1958	
Retail trade.....	736	729.5	-0.9
All nonagricultural industries.....	4,810	4,450.0	-7.5

Monthly employment in retail trade

	Employees (thousands)			Percent change, October to December
	October	November	December	
1956.....	725.4	741.3	805.5	+11.0
1957 ¹	738.5	1 ² 750.1	806.1	+9.2
1958.....	733.6	745.1	802.4	+9.4

¹ Year and month \$1 minimum made effective.

² Increase in employment, after minimum wage raised, of 1.2 percent over same month in preceding year.

CONNECTICUT

A \$1 minimum wage for retail trade was made effective in Connecticut in mid-1957—July 1, 1957. The former minimum was 75 cents.

Employment data show that retail trade employment rose from 1956, the year before the new minimum wage, to 1958, the year after, even though total nonfarm employment dropped continuously during this period. Specifically:

First. Annual retail employment expanded by 1.5 percent from 1956, before the minimum increase, to 1958, the year after. By contrast total nonfarm employment dropped off by 4.3 percent during the same period.

Second. From the June 1957, the month immediately preceding the minimum wage increase, to August, the month immediately following, retail employment held up better than the usual seasonal decline. The decline following

the higher minimum was 3 percent, compared with 4.9 percent for the same months in 1956, and 3.2 percent in 1958.

One dollar minimum for retail trade effective July 1, 1957:

Annual employment

	Employees (thousands)			Percent change, 1956-58
	1956	1957	1958	
Retail trade.....	121.3	118.8	123.1	+1.5
All nonagricultural industries.....	909.8	904.5	870.9	-4.3

Monthly employment in retail trade

	Employees (thousands)			Percent change, June to August
	June	July	August	
1956.....	124.0	120.6	117.9	-4.9
1957 ¹	118.7	116.6	115.2	-3.0
1958.....	123.7	121.5	119.8	-3.2

¹ Year and month \$1 minimum made effective.

MAINE

A \$1 minimum wage for retail trade was made effective in Maine on September 12, 1959. There was no previous minimum wage in effect.

Data on employment for retail trade alone are not available for this State, but employment data are available for total trade—of which retailing accounts for 70 to 80 percent and wholesaling for 20 to 30 percent.

The employment figures show that both trade and total nonfarm employment expanded from 1959, the year the minimum wage was first introduced, to 1960, the year immediately following, specifically:

First. Total trade employment in 1960 was 0.9 percent higher than in 1959, the year the minimum wage went into effect. Total nonfarm employment also rose, by 1.4 percent.

Second. Trade employment in September 1959, the month the minimum was put into effect, was 2.3 percent higher than in September of the previous year. Similarly, in October 1959 the month after introduction of the minimum wage, trade employment was 2.8 percent higher than in October 1958.

Third. From August 1959, the month immediately preceding the establishment of the minimum wage requirement, to September, the month immediately following trade employment held up better than seasonally: it declined only 1.6 percent, as compared with 2.8 percent for the same months in 1958, and 2.2 percent for the 1960 period.

One dollar minimum wage for retail trade made effective September 12, 1959:

Annual employment

	Employees (thousands)		Percent change
	1959	1960	
Total trade ¹	53.5	54.0	+0.9
All nonagricultural industries.....	273.6	277.3	+1.4

Monthly employment in trade ¹

	Employees (thousands)			Percent change, August to October
	August	September	October	
1958.....	54.2	52.9	52.7	-2.8
1959 ²	55.1	³ 54.1	⁴ 54.2	-1.6
1960.....	55.3	54.3	54.1	-2.2

¹ Includes both wholesale and retail trade. Separate data for retail trade alone not available. (Ordinarily, retail trade accounts for 70 to 80 percent of total trade employment.)

² Year and month \$1 minimum made effective.

³ Increase in employment, after minimum wage set, of 2.3 percent over same month in preceding year.

⁴ Increase in employment, after minimum wage set, of 2.8 percent over same month in preceding year.

MASSACHUSETTS

A \$1 minimum wage for retail trade was made effective in Massachusetts at the end of 1959—December 2, 1959. The former minimum was 90 cents.

Data on employment for retail trade alone are not available for this State, but employment data are available for total trade—of which retailing accounts for 70 to 80 percent and wholesaling for 20 to 30 percent.

The employment figures show that trade employment increased in the year following the increase in the minimum wage, specifically:

First. Employment in trade in 1960, the year following the higher minimum wage, was up 2.1 percent. This was a larger increase than the 1.3 percent rise in total nonfarm employment in the State.

Second. The immediate change in trade employment, from the month before the minimum was raised to the month after, was in line with the seasonal employment change in these months in other years. The seasonal change of 3.1 percent from November 1959 to January 1960 compares with a drop of 3.4 percent in the corresponding 1958-59 period and a drop of 2.8 percent in the 1960-61 period.

One dollar minimum for retail trade made effective December 2, 1959:

Annual employment

	Employees (thousands)		Percent change
	1959	1960	
Total trade ¹	379.1	387.0	+2.1
All nonagricultural industries.....	1,890.7	1,915.1	+1.3

¹ Includes both wholesale and retail trade. Separate data for retail trade alone not available. (Ordinarily, retail trade accounts for 70 to 80 percent of total trade employment.)

Monthly employment in total trade ¹

	Employees (thousands)			Percent change, November to January
	November	December	January	
1958-59.....	379.0	392.1	366.1	-3.4
1959-60.....	387.5	² 404.5	375.4	-3.1
1960-61.....	393.1	412.0	382.2	-2.8

¹ Includes both wholesale and retail trade. Separate data for retail trade alone not available. (Ordinarily, retail trade accounts for 70 to 80 percent of total trade employment.)

² Year and month \$1 minimum made effective.

NEVADA

A \$1 minimum wage for retail trade was made effective in Nevada in mid-

1957—July 1, 1957. The former minimum was 87½ cents.

Employment data for the period 1956-58 show that retail employment dropped slightly between 1956 and 1957, but remained level in 1958, while nonagricultural employment as a whole declined slightly between 1956 and 1958, specifically:

First. Annual employment in retailing dropped 1.3 percent between 1956 and 1957, when the new minimum went into effect, but showed no change in 1958. Total nonagricultural employment, rose slightly in 1957, but declined in 1958 to 0.7 percent below 1956 levels.

Second. Immediately after the increase in the minimum wage, retail employment increased. The rise was more than the usual increase from June to August. From June 1957, the month immediately preceding the effective date of the new minimum wage, to August 1957, the month after the month of the minimum wage increase, retail employment rose by 7.5 percent. By contrast, in the same period in 1956 the increase was only 3.6 percent and in 1958 it was 3.1 percent.

One dollar minimum wage for retail trade effective July 1, 1957:

Annual employment

	Employees (thousands)			Percent change, 1956-58
	1956	1957	1958	
Retail trade.....	15.9	15.7	15.7	-1.3
All nonagricultural employment.....	85.5	86.4	84.9	-7

Monthly employment in retail trade

	Employees (thousands)			Percent change, June to August
	June	July	August	
1956.....	16.7	17.3	17.3	+3.6
1957 ¹	16.0	¹ 16.6	17.2	+7.5
1958.....	16.2	16.6	16.7	+3.1

¹ Year and month \$1 minimum made effective.

NEW HAMPSHIRE

A \$1 minimum wage for retail trade was made effective in New Hampshire at the end of 1959—November 30, 1959. The former minimum was 85 cents.

Data on employment for retail trade alone is not available for this State, but employment data are available for total trade—of which retailing accounts for 70 to 80 percent and wholesaling for 20 to 30 percent.

The employment figures for trade show that the increase in the minimum wage in New Hampshire was accompanied by an increase in employment. Specifically:

First. Employment in trade in 1960, the year following the higher minimum wage, was up 4.9 percent. This was a larger increase than the 2.3-percent rise in total nonfarm employment in the State.

Second. The immediate impact, from the month just before the minimum was increased—October—to the month just following the increase—December—found an employment rise of 3 percent. This was a greater rise than in the same period in other years; in 1958, the Oc-

tober-December rise was 2.8 percent and in 1960 it was 2.3 percent.

One dollar minimum wage for retail trade effective November 30, 1959:

Annual employment

	Employees (thousands)		Percent change
	1959	1960	
Total trade ¹	32.8	34.4	+4.9
All nonagricultural industries.....	191.1	195.5	+2.3

Monthly employment in retail trade ¹

	Employees (thousands)			Percent change, October to December
	October	November	December	
1958.....	32.1	32.0	33.0	+2.8
1959 ²	33.5	² 33.2	34.5	+3.0
1960.....	35.2	34.9	36.0	+2.3

¹ Includes both wholesale and retail trade. Separate data for retail trade alone not available. (Ordinarily, retail trade accounts for 70 to 80 percent of total trade employment.)

² Year and month \$1 minimum made effective.

NEW JERSEY

A \$1 minimum wage for retail trade was made effective in New Jersey on October 9, 1956. The previous minimum wage, varying by zones, ranged from 55 cents to 60 cents.

Examination of employment data shows that retail trade employment increased after the new minimum became effective. The annual increase was larger than for nonfarm industries generally. In the month immediately after the minimum was raised, employment jumped 8 percent, a much larger rise than in the same month in other years. Specifically:

First. Annual employment in retailing was 3.4 percent higher in 1957 than in 1956 when the minimum wage was increased. Total nonfarm employment increased by 1.5 percent in the same period.

Second. Retail employment in October 1956, the month of the minimum wage increase, was 4 percent higher than in October of the previous year 1955. In November 1956, the month after the wage increase, retail employment was 10.1 percent higher than in the same month of the previous year 1955.

Third. The month-to-month increase in retail employment from September 1956, the month just before the minimum wage rise, to October 1956, the month immediately following, was much larger than for the same period in either 1955 or 1957. The increase for the 1956 period was 8 percent, as against 2.3 percent in 1955, and 1.5 percent in 1957.

One dollar minimum for retail trade made effective October 9, 1957:

Annual employment

	Employees (thousands)		Percent change
	1956	1957	
Retail trade.....	264.5	273.4	+3.4
All nonagricultural industries.....	1,930.4	1,958.6	+1.5

Monthly employment in retail trade

	Employees (thousands)			Percent change, September to November
	September	October	November	
1955.....	256.0	256.9	261.8	+2.3
1956 ¹	267.0	¹ 267.3	² 288.3	+8.0
1957.....	274.6	275.6	278.7	+1.5

¹ Year and month \$1 minimum made effective.² Increase in employment, after minimum wage increase, of 4 percent over same month in preceding year.³ Increase in employment, after minimum wage increase, of 10.1 percent over same month in preceding year.

NEW YORK STATE

A \$1 minimum wage was made effective in New York State starting February 15, 1957, for retail trade in all cities of 10,000 or more, with a 90-cent minimum in cities of less than 10,000. In January 1958, the 90-cent minimum in small communities was raised to the \$1. Before 1957, the minimum had been 70 cents in the over 10,000 cities and 65 cents in the smaller ones.

Retail employment in New York increased after the raising of the minimum wage, even though total employment in the State was declining. Specifically:

First. Annual employment in 1957, the year the retail minimum was raised, increased by 2.1 percent over 1956, at the same time that employment in all nonfarm industries declined by 1.7 percent. If retail employment is eliminated from the nonfarm total, then the decline in total nonfarm nonretail employment is 2.3 percent.

Second. Retail employment in the month the minimum wage was raised, February 1957, was 2.3 percent greater than the same month a year earlier. Employment the following month, March 1957, was 1.5 percent higher than the preceding March.

Third. In the 2 months immediately following the increase in the minimum, there was virtually no change in employment; from January to March 1957, the period bridging the increase of the minimum in February 1957, employment edged off one-half of 1 percent, a change worse than the minor upturn in the same period the year before, but better than a larger decline in the same period a year later.

One dollar minimum wage for retail trade effective February 15, 1957, in cities of 10,000 or more, 90 cents in cities of less than 10,000 people:

Annual employment

	Employees (thousands)		Percent change
	1956	1957	
Retail trade.....	859.8	878.0	+2.1
All nonagricultural industries.....	6,120.4	6,018.7	-1.7

Monthly employment in retail trade

	Employees (thousands)			Percent change, January to March
	January	February	March	
1956.....	830.3	823.7	835.3	+0.6
1957 ¹	851.5	¹ 842.4	² 847.6	-0.5
1958.....	878.4	860.8	865.4	-1.5

¹ Year and month in which minimum wage raised.² Increase in employment, after minimum wage raised, of 2.3 percent over same month in preceding year.³ Increase in employment, after minimum wage raised, of 1.5 percent over same month in preceding year.

PENNSYLVANIA

A \$1 minimum wage was made effective for retail trade in cities over 500,000—Philadelphia and Pittsburgh—starting January 19, 1959; the minimum in cities of 10,000 to 500,000 was set at 85 cents and in cities under 10,000 at 75 cents.

Starting January 15, 1961, the minimum in cities of 10,000 to 500,000 has been raised to \$1 and in cities under 10,000 to 90 cents. Employment data for the period after this increase are not yet available from Government sources.

Examination of employment data for the entire State and separately for Philadelphia and Pittsburgh shows that (a) retail employment moved more favorably after the new minimum wage than did other employment, and (b) an immediate downturn in employment occurred in the month following the raising of the minimum, but this downturn was no greater than has been customary at that season, January to February, in other years. Specifically:

First. Annual retail employment in the State as a whole moved up in 1959, the year the minimum wage was raised, by eight-tenths of 1 percent, a bit more than the six-tenths of 1 percent increase in total nonfarm employment in the same year.

The same was true in Philadelphia: the \$1 minimum at the start of 1959 was followed by an increase in employment of 2.2 percent over the preceding year as against a 1.5-percent rise in employment in all industries.

In Pittsburgh, where total employment in 1959 declined by 2.4 percent, retail trade held up better, edging down only nine-tenths of 1 percent.

Second. In the month immediately after the minimum was raised, February, retail employment declined, but no more than the seasonal decline typical at that time of year.

For the State as a whole, the January to February decline in 1959 when the minimum was raised was 1.3 percent, a decline smaller than in 1958, 2.1 percent, and 1960, 1.5 percent, years when there was no increase in the minimum wage.

In Philadelphia and Pittsburgh, the decline over the month was also in line with the usual seasonal drop from January to February.

One dollar minimum wage for retail trade made effective January 19, 1959, in Philadelphia and Pittsburgh; 85 cents minimum made effective in cities of 10,000 to 500,000 and 75 cents in cities under 10,000.

Effective January 15, 1961, minimum in cities of 10,000 to 500,000 raised to \$1 and in cities under 10,000 to 90 cents. Employment data for the period following this increase are not yet available.

Annual employment

	Employees (thousands)		Percent change
	1958	1959	
Entire State:			
Retail trade.....	506.3	510.5	+0.8
All nonagricultural industries.....	3,609.6	3,629.7	+0.6
Philadelphia:			
Retail trade.....	203.1	207.6	+2.2
All nonagricultural industries.....	1,463.4	1,485.7	+1.5
Pittsburgh:			
Retail trade.....	112.0	110.0	-0.9
All nonagricultural industries.....	783.2	764.4	-2.4

Monthly employment in retail trade

	Employees (thousands)		Percent change, January to February
	January	February	
Empire State: -			
1958.....	504.2	493.4	-2.1
1959.....	493.6	487.1	-1.3
1960.....	503.2	497.5	-1.5
Philadelphia:			
1958.....	202.8	199.3	-1.7
1959.....	201.5	200.0	-0.8
1960.....	206.9	206.0	-0.4
Pittsburgh:			
1958.....	114.0	109.6	-3.9
1959.....	109.3	106.8	-2.3
1960.....	109.9	107.7	-2.0

NOTE.—Data for December 1957 is on different SIC basis, so December to February change not calculated because data not comparable.

RHODE ISLAND

A \$1 minimum wage for retail trade was made effective in Rhode Island on October 1, 1957. The former minimum was 90 cents.

Data on employment for retail trade alone are not available for this State, but employment data are available for total trade, of which retailing accounts for 70 to 80 percent and wholesaling for 20 to 30 percent.

There was a general downturn in all employment in the state between 1957 and 1958, but trade employment held up better than nonfarm employment as a whole. Specifically:

First. From 1957, when the minimum was increased, to 1958, trade employment dropped by 2.8 percent, considerably less than the 4.2-percent drop in nonfarm employment generally.

Second. On an immediate basis, trade employment went up just after the minimum wage was raised. It increased by

1.3 percent from September 1957, the month just before the minimum wage rise, to November 1957, the month immediately following. This compares with a 1.8-percent increase for the same months in 1956, and a 2.9-percent increase for the 1958 period.

One dollar minimum for retail trade made effective October 9, 1957:

Annual employment

	Employees (thousands)		Percent change
	1957	1958	
Total trade ¹	53.2	51.7	-2.8
All nonagricultural industries.....	284.0	272.1	-4.2

Monthly employment in trade¹

	Employees (thousands)			Percent change, September to November
	September	October	November	
1956.....	54.4	² 54.0	55.0	+1.8
1957 ²	52.4	² 52.3	53.1	+1.3
1958.....	51.0	51.2	52.5	+2.9

¹ Includes both wholesale and retail trade. Separate data for retail trade alone are not available. (Ordinarily, retail trade accounts for 70 to 80 percent of total trade employment.)

² Year and month \$1 minimum made effective.

UTAH

Minimum wages of 85 cents to \$1, varying by zones, were made effective in Utah on September 1, 1960. The former range was 75 to 90 cents.

Employment figures for 1961 are of course not yet available, so it is not possible to measure the effects of the new minimum on a year-to-year basis. From 1959 to 1960, including the part of 1960 in which the new minimums were in effect, retail employment expanded by 4.5 percent, somewhat larger than the increase for all nonfarm employment.

Retail employment in September and October 1960, the 2 months following the increase in the minimum wage, was 4.1 percent higher than in the same months the preceding year.

Minimum wage of 85 cents to \$1, varying by zones, made effective September 1, 1960:

Annual employment

	Employees (thousands)			Percent change, 1959-60
	1959	1960	1961 ¹	
Retail trade.....	42.1	44.0	-----	+4.5
All nonagricultural industries.....	253.0	263.0	-----	+4.0

¹ 1961 data not yet available to permit measurement of change in annual employment in year after minimum wage increased.

Monthly employment in retail trade

	Employees (thousands)			Percent change, August to October
	Aug.	Sept.	Oct.	
Year before minimum raised (1959).....	43.5	43.5	43.5	None
Year in which minimum raised (1960).....	45.4	45.3	45.3	-0.2
Increase in employment, same month before and after minimum raised.....	-----	+4.1	+4.1	-----

¹ Month 85 cents to \$1 minimum made effective.

VERMONT

A \$1 minimum wage for retail trade was made effective in Vermont in October 1959. The former minimum was 75 cents.

Examination of employment data shows that retail employment expanded in Vermont in the year following the minimum wage increase, even though employment in other industries dropped off.

Specifically:

First. Annual employment in retailing rose 4.2 percent from 1959 to 1960, while employment in all nonagricultural industries dropped by 3.7 percent.

Second. Retail employment in October 1959, when the increase went into effect, was 1.2 percent greater than in October of the previous year. The November 1959 retail employment level was 1.9 percent higher than in November 1958.

Third. The immediate change in retail employment, from the month before the minimum was raised to the month after, was no different than the employment change in these months in other years. The seasonal change of 3 percent from September to November in 1959, when the minimum was raised, was virtually the same as in the same period the year before, 1958, and the year after, 1960.

One dollar minimum wage for retail trade effective October 8, 1959:

Annual employment

	Employees (thousands)		Percent change
	1959	1960	
Retail trade.....	16.5	17.2	+4.2
All nonagricultural industries.....	106.2	102.3	-3.7

Monthly employment in retail trade

	Employees (thousands)			Percent change, September to November
	September	October	November	
1958.....	16.5	16.3	16.0	-3.0
1959 ¹	16.8	² 16.5	³ 16.3	-3.0
1960.....	17.0	16.7	16.5	-2.9

¹ Year and month \$1 minimum made effective.

² Increase in employment, after minimum wage raised, of 1.2 percent over same month in preceding year.

³ Increase in employment, after minimum wage raised, of 1.9 percent over same month in preceding year.

WASHINGTON

A \$1 minimum wage for retail trade was made effective in Washington in mid-1959—June 11, 1959. The former minimum was 65 cents.

Retail employment increased substantially following the increase in the minimum wage. Specifically:

First. Annual employment in retailing rose after the minimum was increased in mid-year, so that total 1959 retail employment was up 4.5 percent over 1958, and 1960 employment rose another 3 percent, so that employment in 1960 stood 7.6 percent above levels in 1958, the year before the minimum wage was raised.

Second. In terms of specific months, retail employment in June 1959, the month the minimum wage was raised, was 5.5 percent higher than in June of the previous year, 1958. Similarly, in July 1959, the month following the introduction of the new minimum, retail employment was 6 percent higher than in July of the previous year, 1958.

Third. In terms of immediate employment changes, from May of 1959, the month just before the minimum wage increase, to July 1959, the month immediately following, retail employment rose 3 percent, an increase broadly in line with the upturn customary at this season.

One dollar minimum wage for retail trade effective June 11, 1959:

Annual employment

	Employees (thousands)			Percent change, 1958-60
	1958	1959	1960	
Retail trade.....	118.6	123.9	127.6	+7.6
All nonagricultural industries.....	782.8	812.8	816.4	+4.3

Monthly employment in retail trade

	Employees (thousands)			Percent change, May to July
	May	June	July	
1958.....	114.7	118.0	119.2	+3.9
1959 ¹	122.6	² 124.5	³ 126.3	+3.0
1960.....	126.8	129.1	129.5	+2.0

¹ Year and month \$1 minimum made effective.

² Increase in employment, after minimum wage raised, of 5.5 percent over same month in preceding year.

³ Increase in employment, after minimum wage raised, of 6 percent over same month in preceding year.

Mr. ROOSEVELT. Mr. Chairman, I yield such time as he may desire to the gentleman from New York [Mr. CELLER].

(Mr. CELLER asked and was given permission to revise and extend his remarks.)

Mr. CELLER. Mr. Chairman, I want to direct a few brief remarks primarily to some colleagues on the other side of the aisle, particularly from my own State. I fear that some of them may have regarded this minimum wage bill as a partisan issue.

This issue transcends narrow party lines. The Fair Labor Standards Act has been the law of the land for 23 years; it is not a measure tied to one

party or the other. Both parties have in recent years publicly and repeatedly recognized a need for updating it, for making its standards modern standards tied to the realities of today's living costs and today's industrial structure rather than to the different needs of earlier needs.

First, consider the increase in the minimum. I personally prefer that the minimum wage be increased more rapidly than provided by the committee bill. I believe the minimum should immediately be raised to \$1.25 an hour. After all, the minimum has not been increased since 1955. To increase it by 25 cents now, 6 years after the last adjustment, would mean we are raising the minimum at the rate of only 4 cents a year.

The committee bill approaches this even more modestly. It seeks to ease any potential adjustment difficulties by deferring the full 25-cent increase for still another 2 years. This would mean that over the 8-year period since the last increase, the minimum will have been raised at a rate of only 3 cents a year.

Is this too much? Can there be genuine party difference on the moderateness of so small a figure? Should we not be ashamed that we are advancing our minimum protection at so slight a rate, a rate so far behind the rate of general advance in industrial wage levels?

If we permit this amount to be trimmed further, or to be put off indefinitely, we would be guilty of a grievous injustice to the many workers still dependent on the statutory minimum as the determinant of their wage level.

New York State is a relatively high wage area. We are justly proud of the fine wages enjoyed by most of our State's citizens. Why should we therefore be concerned with the minimum wage issue? Apart from fundamental humanitarian and moral considerations, which I cannot take the time to dwell on in detail, let me remind you that even in New York we are plagued still by pockets of unjustifiably low wages, by nagging echoes of sweatshop days we fondly but mistakenly believe are buried in the distant past. Unfortunately, thousands of our own State's workers will not rise above \$1 or \$1.10 unless and until the legal minimum requirement is raised to require a more decent wage. It is for these working citizens of our own State and other similar States that we must be concerned.

Many of these low-wage workers, although employed full time, are not paid enough to sustain their families and must therefore be subsidized by local relief agencies or Federal assistance in order to survive. Surely it is morally wrong for employers to benefit from the labor of workers who are able to exist only because of financial aid from relief agencies. Surely minimum welfare needs for employed workers should be met by adequate minimum wage requirements.

At the same time, we must be concerned with another problem—the need for protection of employers who do pay more reasonable wages but are undercut by cutthroat wage competition. The increase in the minimum wage to \$1.25

will help reduce the runaway of industry seeking to take advantage of the lowest possible wages available in other areas. And, I should add, it will curtail such runaway without discouraging sound growth of industry in new areas based on factors other than substandard wages.

As to extension of coverage to unprotected workers, New York State has recognized the value of minimum wage standards for industries excluded from coverage of the Federal act. It has established for retail industry, both large and small, minimum wages as high as the Federal standard—and the results have been beneficial.

But as we look to the record of worker protection provided in many other States, we must be shocked at the unbelievably low standards still countenanced in some jurisdictions and the total lack of any protection whatever in others.

Can we in good conscience stand by and say that fair labor standards in other parts of the country are not our concern? Can we stand by and say that States which have set no minimum wage standards to govern large businesses, businesses which the Congress has regulated in other respects, have made a judgment we must accept?

Surely the answer is clear, whether posed in moral, economic or constitutional terms. And surely it is a fundamental matter on which we can unite without regard to party label.

Mr. ROUSSELOT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and sixteen Members are present, a quorum.

The Chair recognizes the gentleman from Ohio.

Mr. AYRES. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana [Mr. BRUCE], a new member of the committee.

Mr. BRUCE. Mr. Chairman, I think I do not need to express the emotions that run through the mind of a freshman when he stands for the first time before his colleagues. There are many conflicting thoughts in mind. You remember men whose greatness you can never hope to equal who have stood in the same position. You have sat here just long enough to reach out and understand the eloquence of some of your colleagues who have years of experience in this position. You strive in conscience not to be divisive; and I hope and pray that what I do say is not divisive in nature, but is more important, a statement or a restatement of certain basic philosophies.

I do not question the motive of any of the gentlemen in the Chamber. It is not for me to challenge motive because no one except the individual can understand that. We have seen wide disagreements here already. We have seen variance of opinion expressed in fiery terms. I wish it were possible for me to have a full and total understanding in all of its ramifications of what effect legislation such as we are discussing here would have. This is impossible

because we are dealing with a national picture, with even international overtones by implication.

It would be easy for me to stand here and try to express the opinions of one group or another. I have met with representatives, many of them from business enterprises large and small; from labor organizations large and small. And all I can tell the gentlemen is that I have tried to the best of my ability not to be influenced by what could be considered their interest in personal gain or advantage, but rather to the best of my humble ability to try and reach a conclusion which I could stand here and defend, honestly believing it to be right.

I can assure the gentlemen that on the final vote on this issue, on this measure and like measures I shall vote "no," not because I hate somebody, not because I do not love the unemployed, and not because I do not love the low-income people and want to help them; but rather because I think this legislation will hurt them, will harm them. We are dealing in an age of upside-down language. We are living in a period where the word liberal has become synonymous with collectivism and centralization of authority; where to stand for the liberty of the individual and oppose the extension of the Federal Government is to be labeled as a reactionary. I repudiate the terms as now used because they are meaningless.

I shall vote in the final analysis against each and every one of these bills because I believe we are overstepping the authority of the Federal Government in a very delicate field. I do not believe it is possible for us to look across a nation as vast as this, with our varying economic conditions in Georgia, Mississippi, Alabama, Indianapolis, New York City, Boston, and California and say, "This is what you have to do," and do it with any type of justice whatsoever. In the name of justice we wreak havoc and injustice. We violate the concept of individual liberty upon which this Nation was founded. Liberalism, conservatism—let us forget the conflict of name-calling and reestablish a philosophy that says we are individuals, that we are 50 sovereign States.

If they want \$1.25 in New York State, have the New York Legislature pass the \$1.25. If they want it in Alabama, are there not enough people in Alabama who can and will be heard? Have you forfeited the responsibility of the State governments? Do we not have legal channels to be heard within our States? This is the jurisdiction which we must reemphasize and reiterate in a day when ideologies are in total conflict.

We do not defeat total collectivism in the world with a gradual, bit-by-bit collectivism here at home. We say we are going to increase purchasing power by setting off inflation. We say \$1 is not enough now. That may be. Why is it not enough? Because it is inflation that has destroyed the value of the dollar as a purchasing entity. So we push it to \$1.25, and then 2 years from now come back and say, "It is not enough." So we make it \$1.50 or \$2. We go in circles and in contradiction. In the name of help-

ing the low-income groups we set off an inflation spiral that hurts them above all. We further destroy the value of the dollar and make more and more people dependent on government for subsistence.

We have established a subcommittee in the Committee on Education and Labor to study the effects of automation, and then we come in with proposals like this one which only speed up automation. I have talked with men in my own district and elsewhere. Based on these conferences, I know that if this goes through they will be forced to step up automation and increase the impact of automation and its temporary dislocation of employment. Again I say we are going in circles and in contradiction.

There is a question of constitutionality involved in the dollar volume approach advocated here. One gentleman says there is and the other says there is not. Obviously there is a question. We substitute for the formula of interstate commerce the formula of dollar volume. This change is made along with others, exemptions for this and that, because one group has more pressure and better lobbies; because this group or that apparently controls more votes politically. Minority view though it may be, I still hold that "that governs best which governs least" on a Federal level. I shall so speak, I shall so vote, I shall so dedicate my time.

Mr. AYRES. Mr. Chairman, I yield 10 minutes to the gentleman from New Jersey [Mr. FRELINGHUYSEN].

(Mr. FRELINGHUYSEN asked and was given permission to revise and extend his remarks.)

Mr. FRELINGHUYSEN. Mr. Chairman, we have all heard expressed here very eloquently the very different views of Members on this legislation. There is no doubt in my own mind that we are faced with a very controversial piece of legislation. I think perhaps at the outset I should make my own position clear.

I believe and have so stated over the past few years that we should have a moderate increase in our Federal minimum wage, and also that there should be a suitable extension of coverage. I should add also at the outset that I voted against this bill as it was reported from the committee. Why, one may ask, why did I do so? Why am I unenthusiastic about the specific provisions of this bill? I should like to mention first the so-called escalator provision. The chief sponsor of this bill, the gentleman from California [Mr. ROOSEVELT], has described this as a \$1.25 minimum bill. It is, of course, not quite accurate so to describe it. They are suggesting an increase to \$1.15, and then in 2 years' time an increase to \$1.25.

In a sense, I suppose, it can be said that we are, if we should enact this proposal, thereby discharging campaign promises made last year, and platform pledges made last year. Nonetheless I fail to see why there is any justification for this Congress to attempt to legislate matters which more appropriately should come before us at a later time.

During the brief testimony on this bill the Secretary of Labor, Mr. Goldberg, in answer to a question by me and the quotation is on page 55 of the hearings, specifically opposed an immediate increase to \$1.25 for two reasons. He recognized the adverse side effects which might result, and he referred to the obligation of taking a balanced view with respect to this whole question. Well, if Mr. Goldberg expressed then a reasonable point of view, why would it not be reasonable to take a look at a future date of what future increases and future extensions we should make in this legislation?

The argument has been advanced that if we do not do it now, it may be difficult for us to do it later. But, I would suggest that we are legislating in the dark without any possibility of knowledge as to what the economic condition of the country will be 2 years from now, if we attempt to make mandatory an increase of any amount. If this approach is logical and wise, we might just as well authorize still further increases and still further extensions 5 years from now or, perhaps, 10 years from now.

Mr. Chairman, in my opinion, this is not the course of wisdom. The chairman of our full committee has said we have had masses of testimony, and he brought here to the well the volumes of the hearings which have been held since 1949 on this general subject to justify the wisdom of what this committee is now proposing. Well, the fact of the matter is, out of all these mountains of hearings, we have precious little this year. True, we have a volume of some 600 pages incorporating the views of a grand total of 11 witnesses on this very tremendous and very controversial subject. In addition, there was bulky testimony—printed statements by various other groups. The fact that we have gone over a lot of this ground before and have even passed legislation in previous years is no excuse for our committee skimping on its responsibility to take a direct look at the testimony and to hear the testimony of witnesses both for and against this bill.

We have heard the gentleman from Pennsylvania [Mr. DENT] mention the fact that a great many representative groups have been in informal discussions with us as individual Members.

He suggests that as a result of those informal meetings there have been some changes in the law which make this meritorious legislation. In my opinion that is a very poor way to legislate. In the first place, the "we" who make the decisions which result in the changes in the legislation are perhaps the gentleman from California [Mr. ROOSEVELT], or perhaps the gentleman from Pennsylvania [Mr. DENT], or perhaps some Republican. However, the "we" is not the committee, sitting as a legislative body with direct responsibility for producing sound legislation.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. Briefly.

Mr. DENT. I only want to say that there were no changes made as a re-

sult of that meeting. If the gentleman will remember, I asked a question of the sponsor. That brought out the fact that no change was made in the law. What the gentleman from California [Mr. ROOSEVELT] wanted was a clarification of the law for the record. There was no change made by anybody but the committee.

Mr. FRELINGHUYSEN. I am glad the gentleman from Pennsylvania thinks so, because I am just about to bring out the fact that I offered an amendment in the committee which was proposed to me in this informal way. This amendment incidentally was accepted unanimously by the committee, although I had no clear view in my own mind whether the amendment I was offering was meritorious or not. For anyone to say that no changes were made as a result of these informal pressures is simply not to state the truth.

Mr. DENT. Mr. Chairman, will the gentleman yield further?

Mr. FRELINGHUYSEN. I will yield in a moment.

I refer specifically to the language on page 43 of the committee bill beginning on line 13 and going through line 20. It refers to a limit of overtime exemption for certain laundries. I read the language:

Provided further, That this exemption shall not apply to any employee of any such establishment which has an annual dollar volume of sales of such services of \$250,000 or more and which is engaged in substantial competition in the same metropolitan area with an establishment less than 50 per centum of whose annual dollar volume of sales of such services is made within the State in which it is located;

I assume that some Members know what the language means. They may also know if it will be satisfactory to the enterprises which would be affected if it is incorporated into law. All I know is that a Member of Congress sent me a letter saying that this language should be retained in the legislation. I hope it will be beneficial.

I should point out that this provision was in the bill as originally introduced by Mr. ROOSEVELT. For some reason it was taken out during, I suppose, the deliberations of the subcommittee. As a result of my inquiry about the wisdom of including such language in the bill there was a brief discussion with respect to the fact that there are certain laundries in the District of Columbia which are presently handicapped competitively by laundries which operate either in Virginia or in Maryland and which are exempt from overtime provisions under the present law. This additional protection was suggested as important for the laundries in the District of Columbia so they would not be at an undue handicap if there should be a further increase in the minimum wage law.

I am certainly no expert in the field of what constitutes reasonable competition for laundries. I cannot be certain whether we should provide some additional protection for laundries in the District of Columbia, as compared with

laundries in the nearby States. I simply raised the question in committee as to why it had been deleted. There was relatively quick agreement that there was nothing wrong with the language, so it was incorporated in the bill. If it was a good provision why had it been deleted? Has there been any thorough exploration of the effect of the provision?

This is what I call an unwise way to legislate. Perhaps it is better that something was done in committee than to have it done on the floor. Nonetheless, what we are about to do here on the floor is probably to abandon, for one reason or another, the committee bill and to accept a major alternative. This is probably what should be done. If we do, it will be proof that we as members of the committee have not performed our own responsibilities adequately.

Mr. DOMINICK. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] Seventy-eight Members are present, not a quorum.

The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 24]

Anderson, Ill.	Harrison, Va.	Ostertag
Auchincloss	Harvey, Ind.	Rabaut
Baker	Hollifield	Rivers, S.C.
Barrett, Pa.	Ikard	Sisk
Breeding	Kilburn	Smith, Miss.
Buckley	Kilgore	Spence
Cahill	Lindsay	Springer
Coad	McDonough	Steed
Curtis, Mass.	McVey	Thompson, La.
Daddario	Magnuson	Vinson
Davis, Tenn.	Mason	Wilson, Ind.
Fogarty	Monagan	Wright
Hall	O'Konski	Zelenko
Harris	Osmer	

Accordingly the Committee rose, and the Speaker having resumed the chair, Mr. WALTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 3935, and finding itself without a quorum, he directed the roll to be called, when 389 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. AYRES. Mr. Chairman, I yield 25 minutes to the gentleman from New York [Mr. GOODELL].

Mr. GOODELL. Mr. Chairman, may I say at the outset that I stand here as a Member who voted to report out the minimum wage bill. I was in favor of minimum wage legislation. I am in favor of it today. But I would like to talk about some aspects of this particular committee bill that I think are important for us to understand before we act on such legislation.

When I voted to report this bill out I voted to do so with one major reservation. I said I could not vote for it unless certain defects were cured, particularly the dollar volume test of Federal jurisdiction.

Last fall I had the dubious pleasure for a Republican of following Candidate Kennedy around the country on the

Nixon Truth Squad; and as you all know, one of the major issues Mr. Kennedy talked about was the \$1.25 minimum wage. I almost came home with ulcers from listening to him talking on this issue in one place after another to large crowds. He would start out by saying: "Mr. Nixon thinks \$1.25 is extreme; he thinks it is excessive. Do you think \$1.25 minimum wage is excessive?" And the crowd would chorus back: "No! No!"

That happened time after time: in Scranton, Pa.; Muncie, Ind.; Carbondale, Ill.; Youngstown, Ohio; and out in the Far West—\$1.25 minimum wage now.

Let me give you some direct quotes from some of the things Mr. Kennedy said last fall about this \$1.25 minimum wage. In Pocatello, Idaho, on September 6, 1960, he was talking about the Rules Committee, and at the end he made reference to minimum wage. I quote Candidate Kennedy:

From reports I have read they evidently agreed to have the House go to conference on minimum wage only because they understood that the House conferees would not budge from the House bill, which was \$1.15, and hopelessly inadequate.

In Charleston, W. Va., on September 19, 1960, Candidate Kennedy said:

The bill for \$1.25 passed the Senate by a vote of 2 to 1. It failed in the House of Representatives by 12 votes. We went to conference in the House and Senate and tried to get an adjustment. We were informed in the conference that if we passed the \$1.25 an hour it would be vetoed.

In Amsterdam, N.Y., on September 29, 1960, Candidate Kennedy said:

I think this administration should pass a minimum wage of \$1.25 an hour. (Applause). The Vice President of the United States on Monday night's television show said that \$1.25 an hour was extreme, \$1.25 an hour being \$50 a week. You will get that under my bill which was considered extreme in 1960. What is extreme about that? I want somebody in the Senate or the House to live on \$1.25 at a time when the Bureau of Labor Statistics says a single woman to even survive in an urban center of the United States, it costs her \$52 a week. Yet the average wage for laundry women in five large cities of the United States is 64 cents an hour, and for a 48-hour week.

I believe in \$1.25 minimum wage, and I think the next Congress should pass it.

Candidate Kennedy on October 9, 1960:

I come from a party which believes in a \$1.25 minimum wage. [Applause.]

On October 12 Candidate Kennedy said:

I don't lead a party which believes \$1.25 an hour is extreme. Mr. Nixon said that on the debate a week ago.

On October 19, quoting candidate Kennedy:

We fought in the last Congress for a bill to provide \$1.25 minimum wage for restaurant employees, retail stores and all the rest. Mr. Nixon says it is extreme. I don't think \$1.25 an hour for somebody who works in a business which makes \$1 million a year is an extreme wage, living in New York, Whittier, Calif., or Boston, Mass.

On October 28, quoting candidate Kennedy:

Anyone who believes that a minimum wage of \$1.25 is extreme, Mr. Nixon is your man.

These quotes are direct quotes.

Mr. BAILEY. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from West Virginia.

Mr. BAILEY. In view of the gentleman's vote to report the bill out of the committee, shall we get the impression, your colleagues on the committee, that some of this talk about the now President Kennedy when he was a candidate might have rubbed off on the gentleman from New York?

Mr. GOODELL. Maybe that is the explanation, I will not comment on it. I have been in favor of a minimum wage for a long while before I started following candidate Kennedy.

Mr. BAILEY. I thank the gentleman for his vote.

Mr. GOODELL. Now, we come to the 87th Congress with President Kennedy, not Candidate Kennedy. President Kennedy sends up to the Congress not a minimum wage law for \$1.25 an hour but for \$1.15 an hour, exactly what Mr. Nixon and Mr. Eisenhower last year proposed, and Mr. Kennedy could have had it in conference had he been willing to accept it. At that time he said, "No, it is totally inadequate, it is cruel and it is just a miserable approach to the minimum wage problem."

In the subcommittee we considered the question as to when the \$1.25 an hour should become effective. When it got to the full committee we proposed that it go into effect 1 year from the date of enactment, that it start at \$1.15 and then go in 1 year to a minimum wage of \$1.25 an hour.

This was going to come out of the full committee, I think I can say advisedly, with \$1.25 effective 1 year from now when lo and behold we received a letter from Kennedy's Secretary of Labor from which I quote:

During the past several days we in the Department of Labor have given very careful consideration and further study to all of the economic implications of this accelerated program for reaching the highest minimum wage rate a year earlier than originally proposed. In view of the many factors involved and after a realistic appraisal of the entire situation, it is my hope that the Committee on Education and Labor may find it possible to reconsider this decision and restore the original three step approach, as outlined above, or, if considered more desirable, adopt a two step approach, that is, a minimum wage of \$1.15 for 2 years and 4 months after the date of enactment and a minimum wage of \$1.25 thereafter.

With this direct word from President Kennedy's emissary, the committee decided to postpone the \$1.25 minimum wage for 2½ years. I might say that this "very careful consideration and study of the economic implications" of \$1.25 minimum wage came just a little bit late for President Kennedy. He might of thought of that during the campaign when he exhorted for \$1.25 an hour immediately.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Is it not true also that Secretary of Labor Gold-

berg specifically recommended against the suggestion by the chairman of our full committee, the gentleman from New York [Mr. POWELL], that we have an immediate increase to \$1.25?

Mr. GOODELL. Yes, he did. He also, from what he sent up here, left out the restaurant workers that he mentioned in one of the quotations I gave you in the campaign. But, it would appear from all of this that there is a great difference between being a candidate for President and being President. If you are a candidate, \$1.15 an hour minimum wage is cruel and inadequate. If you are President, \$1.15 minimum wage is fine and it will help everybody.

Mr. BAILEY. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from West Virginia.

Mr. BAILEY. Can you cite an instance in which President Kennedy has changed his position on minimum wage?

Mr. GOODELL. I think everything I have said here indicates that he has changed his position. All last fall Candidate Kennedy was for \$1.25 now, immediately. Two years from now is not \$1.25 now.

Mr. BAILEY. The legislation that we are considering today will give us \$1.25 minimum but not in 1 year.

Mr. GOODELL. Two and a half years from now.

Mr. BAILEY. Please do not leave the impression that he has deserted his position on the \$1.25.

Mr. GOODELL. If I have not left that impression, then I have failed completely in what I am talking about here.

Now, another point. We are essentially today considering the Ayres substitute as contrasted with the Kennedy proposal that came out of committee. There has been a lot of talk about the constitutional issues involved. A little earlier somebody said the five-store approach was arbitrary. I might say that the five stores are recognized in the trade, the retail trade, as the point where a chain begins. That is where the five-store theory came from. In other words, five stores or more is considered to be a chain.

Now, one of my colleagues earlier quoted Secretary of Labor Mitchell testifying last year that the five and two formula for interstate commerce was unworkable. And, I might point out that that testimony came before the Ayres substitute was perfected, and that those imperfections that were in it have been corrected. He was worried about possible wholesale evasion under the five-two formula. There is no claim now that there will be an evasion under the present substitute to be considered.

But, what are the implications of this \$1 million volume sales test? When Secretary Goldberg appeared before our committee I asked him: "Can you think of any retail store that would not come under your definition of interstate commerce and be under the jurisdiction of this act if you eliminate the \$1 million?" And he said, "No, I cannot. As a practical matter, they are all in interstate commerce."

Now, the implications of this are very clear, that if we once establish the \$1 million test of jurisdiction by the Federal Government, we are finished as far as local and State jurisdiction over any of these small enterprises is concerned, because all they will have to do from that point on is to reduce this \$1 million figure.

I have debated with many of the advocates of this bill on national networks and in practically every instance when I brought this up they admitted that it is their intention to start lowering this \$1 million figure as quickly as they can. And, when Senator Kennedy and the gentleman from California [Mr. ROOSEVELT] originally introduced their bills, they put the figure at \$500,000; not \$1 million. So, anybody in the retail business or service business that thinks they are protected by this act and exempt because they do less than \$1 million business today, they better take another close look, because they are left out only for the moment. And, the gentleman from California [Mr. ROOSEVELT]—I am sorry he is not on the floor and I hesitate to use his name when he is not here, when he came before the Committee on Rules day before yesterday he said that next year he felt we ought to give immediate consideration to bringing in the hotel workers and re-evaluating this whole thing.

So it is not going to be very long before we start revising it all over again and probably lowering the million dollar figure.

There is a technical aspect of this bill to which I wish to call attention. It may sound rather innocuous but I think it is very important. The committee bill changes the enforcement provisions that presently obtain on minimum wage legislation. Under present circumstances if a man is not paid a minimum wage or if he fails to get his overtime pay, when it is discovered he has a right to sue his employer and get double damages for the amount of back wages that he was not paid. The Secretary of Labor is not satisfied with this. Under the committee bill, when an employee sues his employer, if the Secretary of Labor decides that he also wants to sue and steps into the suit then the employee's case is immediately terminated and the Secretary of Labor sues the case for him. Under the present law there is a requirement that no employee can be made a plaintiff in a suit unless he gives his consent to whomever tries to sue for him. That is eliminated under the committee bill. The Secretary of Labor will be able to go in himself and sue at any time, take over the lawsuit. Or sue by himself, regardless of the desires of the employee he is suing for.

There has been a lot of talk here about the big department stores in single cities that would be left out of this bill, the substitute bill, because they do not have five establishments and they do not operate in two or more States. This is a very false issue, in my opinion. I have before me a list of the largest department stores in this country and they always use them as the awful example. J. L.

Hudson of Detroit pays a minimum wage today of \$1.15 and they will not be affected at all by this bill.

Emporium Capwell of San Francisco today pays \$1.25 minimum wage.

Thrifty Drugs, Los Angeles, pays a minimum wage of \$2.20. None of these stores here pay less than \$1.15 minimum wage today.

Yesterday I had a gentleman in from Rochester, N.Y., and asked him what the seven or eight large stores in his area, department stores, paid as a minimum wage. Not a single one of them paid less than \$1.25 an hour. So this is just a false issue brought up to give the impression that we are going to cover the small people and leave out the big ones, that the employees of those large establishments will be unprotected and go on getting less than the minimum wage.

Mr. WIDNALL. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield.

Mr. WIDNALL. How would this affect laundries—the administration bill?

Mr. GOODELL. That is another very interesting point. The committee bill would include laundries if they do over \$1 million business a year, provided that not more than 25 percent of their business is commercial. The tricky thing here is that most of our small laundries today, in order to survive, have taken up the business of servicing restaurants and hotels. They have done that in quite large proportions and it is the only thing they can do to keep their head above water economically.

Those laundries, regardless of volume of sales, will be covered under the committee bill if more than one-fourth of their volume is this type of commercial business.

Mr. WIDNALL. It is my understanding that in our State of New Jersey the only laundries that will be covered are those that are unionized at the present time and where the employees are getting substantially above the minimum wage in this bill. The nonunion laundries, that are taking away business from the unionized laundries, are not covered and will have a further advantage over the union laundries to the detriment of the union workers in the union laundries.

Mr. GOODELL. That could very well be the case. I do not know the New Jersey situation.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield.

Mr. SMITH of Iowa. I think the gentleman would like to clarify this. They are covered if they do over \$1 million worth of business. Then the ones that do 25 percent in commercial business that are now under the law continue the coverage. The others that are covered are those that are in substantial competition with those now covered in the same metropolitan area that do more than \$250,000 worth of business.

Mr. GOODELL. I agree with the language the gentleman refers to. The fact is that virtually all the small laundries will be covered if they do over 25 percent commercial work. Virtually all

of them satisfy the stipulation about which the gentleman is speaking, about being in competition with such other laundries.

Mr. AYRES. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from Ohio.

Mr. AYRES. Will the gentleman state what the situation regarding laundries is under the so-called Kitchen-Ayres substitute.

Mr. GOODELL. The Kitchen-Ayres substitute will leave them right where they are, most of them exempt.

Mr. CURTIS of Missouri. Mr. Chairman, will be gentleman yield?

Mr. GOODELL. I yield.

Mr. CURTIS of Missouri. I was very much interested in the gentleman's statement predicting that this action here is only a forerunner of what action next year might be as far as coverage is concerned. I call attention to the Secretary of Labor's prepared statement before the committee which appears on page 25 of the hearings, where he says—

In fact, protection under the present law is denied to some 20 million men and women in private industry. But I also realize that we have to progress step by step, sometimes haltingly, to achieve the act's original purposes.

I presume from that statement, and I might ask the gentleman's comment on it, that the Secretary is making quite clear that in his opinion, at any rate, and incidentally contrary to the facts, the original purposes of the act were complete coverage, and that is the objective toward which he intends to take us if he has his way.

Mr. GOODELL. I might state in that connection that I am in favor of extending the coverage today, but I want to accomplish the extension by a way which will guarantee that our purely local enterprises which should come under local and State laws will be regulated by local and State governments, not the Federal Government. If we accept this volume-dollar sales test feature, they are clearly going step by step right down to the local store, regardless of size.

Mr. CURTIS of Missouri. I shall take the floor tomorrow, if I am granted time, and I think I will be yielded time, to expound the economic theory of a minimum wage. It never was intended to be, in fact, it will badly damage it if it is made a complete coverage. That is not the theory, and tomorrow I will speak about it.

Mr. GOODELL. I agree with the gentleman 100 percent.

Mr. HALLECK. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from Indiana.

Mr. HALLECK. I commend the gentleman on his able statement. It is very obvious from his statement that he knows what this legislation is about and knows the problems that are involved.

Let me ask the gentleman this question: In spite of all of the statements that were made in the last campaign, certain efforts that were made to enact at that time a minimum wage of \$1.25,

is it the gentleman's clear impression now that by reason of the consideration of the whole economic situation, and all the other factors involved the administration now thinks that a 15-cent increase in the minimum wage at this time is sufficient?

Mr. GOODELL. I do not think there is any question about that on the record.

Mr. HALLECK. One further question: Of course, the committee bill does provide for the increase to \$1.25 2 years and 4 months after the bill becomes law. Does the gentleman think that would justify a contention at the moment that this is a bill for \$1.25 rather than \$1.15?

Mr. GOODELL. The best way to answer that, I think, is that I have a vision of Candidate Kennedy, standing in front of an audience last fall, saying "I am not for \$1.25, I am for \$1.15 and you will have to wait 2½ years for your \$1.25." He did not do that. It was a lot different. He said, "You should have \$1.25 an hour now." I do not think this is a \$1.25 minimum wage in the view of those people Candidate Kennedy promised \$1.25 last fall.

Mr. HALLECK. I would like to make this further observation. That as a matter of good legislative practice, we all realize 2½ years from now, the Lord willing, the Congress will again be in session. Will not the gentleman agree with me, we might better leave the determination of what the minimum wage ought to be at that time for the determination of the Congress then in being at that time and for us to legislate for the present as far as the minimum wage is concerned?

Mr. GOODELL. I am not in sympathy with the escalator but I do favor a \$1.25 minimum wage, and I think it could very well be handled, if we are going to postpone it for 2½ years, in another Congress.

Mr. O'HARA of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from Michigan.

Mr. O'HARA of Michigan. Did I understand the gentleman to say he differed with the coverage provisions and that he favored the \$1.25 minimum wage?

Mr. GOODELL. I am in favor of going to \$1.25—yes.

Mr. O'HARA of Michigan. When the gentleman was a member of this so-called truth squad last fall, following President Kennedy around; did he tell the people he thought President Kennedy was right on that point and that Mr. Nixon was wrong?

Mr. GOODELL. President Kennedy made a very interesting display of this \$1.25 minimum wage. I did not have an opportunity to talk about what I was in favor of. I was talking about what his record was in the Congress and any contradictions between his campaign and his record. I never assailed him on this point because consistently in the Senate of the United States, he stood for a \$1.25 minimum wage—but, it looks different apparently when you get into the White House.

Mr. O'HARA of Michigan. I wish the gentleman had undertaken his responsi-

bilities as a teller of truth and had told his audience that he, himself, felt President Kennedy's argument was correct and that Mr. Nixon's was incorrect.

I thank the gentleman for yielding to me.

Mr. GOODELL. Mr. Chairman, I would like to conclude on this issue with just one statement. If we adopt the volume sales test for extension of coverage in this minimum wage law, we will be creating a precedent that will come back to haunt us not just in minimum wage legislation, but in many other fields because we will be acknowledging therein that all any kind of enterprise has to do to come under Federal jurisdiction is to make a million dollars, and very soon after we acknowledge that, we will carry it on further and say—all they have to do is to make \$500,000 and then \$250,000 and then \$100,000 and then every single enterprise in the country is going to be under Federal jurisdiction. As much as I favor the extension of the minimum wage law, I will not go along with any such theory of the extension of coverage under that law.

Mr. BAILEY. Mr. Chairman, I yield 25 minutes to the gentleman from Illinois [Mr. PUCINSKI].

(Mr. PUCINSKI asked and was given permission to revise and extend his remarks.)

Mr. PUCINSKI. Mr. Chairman and my colleagues, I rise in support of H.R. 3935. It was my privilege to serve on the subcommittee which wrote this legislation. I would like to thank the gentleman from California [Mr. ROOSEVELT], the gentleman from Pennsylvania [Mr. DENT], the gentleman from Iowa [Mr. SMITH], the gentleman from Ohio [Mr. AYRES], the gentleman from California [Mr. HIESTAND], and the gentleman from New York [Mr. GOODELL] for their contributions and for reporting out, what I think is a good bill. There has been a good deal of discussion here about this bill being rushed through the committee. Nothing could be further from the truth. This committee in this session held hearings in which 11 key witnesses were intensely interrogated. The committee read more than 100 statements presented by interested parties both for and against the legislation. And this same committee for the most part last year in March, April, and May, for 3 long months held exhaustive hearings; and I daresay they were about as exhaustive as any hearings ever held in this Congress. Last year we heard 140 witnesses. The record is replete with testimony for and against this legislation. So any suggestion that this legislation was not thought out by the committee or had not taken into consideration the views of all interested parties is just torturing the truth.

I think this is a fair bill. This bill will provide additional coverage, additional income for some 4.3 million people, Americans who are not now covered by fair labor standards; and it will bring an increase to \$1.25 to approximately 2 million people who now are and have been covered since 1938.

It is quite obvious to me from listening to the previous speaker, that the very

responsible position taken by the President of the United States, Mr. Kennedy, in giving American industry 2 years to adjust itself to the \$1.25 standard, is becoming very irritating to our Republican colleagues. I am certain they would prefer to have the President ignore the problems of American industry in adjusting to these new standards by requesting an immediate increase to \$1.25 an hour so the Republicans could make political hay by charging Mr. Kennedy with irresponsibility if he followed their prodding. The gentleman from New York (Mr. GOODELL) has failed to point out in this Republican truth squad which followed Mr. Kennedy during the campaign that the fundamental issue was that Mr. Kennedy stood for \$1.25 an hour, and the previous administration constantly came before this Congress and held the line at only \$1.15. The fact that President Kennedy has said he is willing to provide 24 months to give American industry an opportunity to adjust itself to the \$1.25 an hour minimum is commendable. It shows the kind of responsible government the President has promised the American people, and he is making good on that pledge.

You might ask, why is there a need for this legislation at this time? And I think it is a perfectly valid question. This is really the fundamental question of this entire controversy. When the Fair Labor Standards Act was adopted in 1938, 56 percent of the American labor force was engaged in production and only 44 percent of the American labor force was engaged in services. So the Congress in 1938 quite properly excluded the service industries from coverage and concentrated on industrial production workers. In the ensuing 22 years, however, America has experienced a revolution and we find that in 1960, just the reverse is true: Only 43 percent of our labor force now is employed in production and 57 percent of the American labor force is now engaged in services which are not covered by any fair labor standards.

We have in this country today 8 million Americans who are earning substantially less than \$1 an hour. How are you going to proclaim to the world the wonders and advantages of the capitalistic system and the benefits of free enterprise, when we have to admit to the world that there are Americans in this country earning substantially less than \$1 an hour? We should enact legislation that would bring all these people up to at least the \$1 an hour standard. But this committee, after exhaustive hearings, recognized that this could not be done at this time and, therefore, proposes to this Congress today a moderate bill, but a bill that will move us forward in giving every American an opportunity to share in the wealth of his Nation. I say that this legislation is very necessary at this time. You have constituents and I have constituents who have asked: How is it that today when we have the largest number of American people employed in the history of our country, we are experiencing the worst recession in 20 years? This is indeed a dilemma that many Americans rightfull-

ly question; and I say to you that one reason for this is that while we have been increasing the number of Americans in the labor force of the Nation, these people have not been earning minimum standards with which to increase their consumer power.

And even though statistically they are added to our present record labor force gainfully employed, dollarwise they are not adding enough to national income to stimulate industry; they are not able to provide enough increase in consumer purchasing power to keep the wheels of industry rolling. It is only because we feel the time has come when these people should be brought more effectively into the consumer stream of commerce that we urge adoption of this legislation.

You cannot have economic growth in America if a substantial part of the labor force is not capable of participating in the consumer needs of America. It is rather interesting to me that on both sides of this aisle we support the concept that the American farmer must be helped and we spend some \$9 billion a year helping the American farmer remain in the consumer stream through various farm subsidies. We can all visualize this, yet we see this violent debate today because we are trying to bring the retail and service employees up to the same standard without cost to the Government. Therefore, Mr. Chairman, I urge adoption of this legislation.

We have heard statements made here that because we are in a recession we should not consider this legislation at the present time, that this is not the time to talk about fair labor standards when we have 5 million Americans unemployed. The fact of the matter, Mr. Chairman, is that the full impact of this legislation will not be felt until 1964. Those presently covered will reach the \$1.25 an hour plateau in the summer or fall of 1963. Those who will newly be covered will reach their \$1.25 plateau by the summer or fall of 1964.

It is important to remember these figures. America today, if the Congress discharges its responsibility, is on the threshold of perhaps the greatest peacetime prosperity our Nation has ever experienced.

The last replacement boom on durable goods that we had in this country was in 1955. According to reliable figures, by 1962 there is going to be a demand for hard durable goods to the tune of \$62 billion; by 1963 this figure is going to increase to perhaps \$64 billion, by 1964 to \$67 billion, and by 1965, at the time that these workers are all reaching their plateau of \$1.25 an hour, at a time when we will have forged into the economy of the country an additional billion dollars in wages for consumer goods, the replacement demand for durable goods in America will reach \$75 billion. These figures will not materialize if we do not let the American labor force in the retail and service industries participate in helping fill the needs of this replacement boom.

There is one thing I think we should recall. Every single American who will benefit by this legislation is in that eco-

nomie class today where every single penny he gets in additional salary he is going to plow back into the economy of the country. We are not talking about people who are buying stocks and bonds, we are not talking about people who are amassing savings in banks; we are talking about the American who is today struggling to provide bare necessities for himself and his family, and if we give him 5, 10, 15, 20, or 25 cents an hour more, every one of those pennies will go back into shoes, dresses, washing machines, automobiles and the home he is trying to get for himself and his family immediately. These are the people we are trying to deal with today.

Mr. BAILEY. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from West Virginia.

Mr. BAILEY. Is the gentleman aware of the fact that in statistics released by the Labor Department there are indicated 76 major distressed areas in the country and that in February they were reporting 101 distressed areas?

Mr. PUCINSKI. Yes, I am and I thank the gentleman for reminding us of this.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. I wonder if the gentleman is right in his prediction that we are going to enjoy a prosperous economy ahead, and whether he feels Congress in 2 years might advocate a substantial increase in the minimum wage because the economic conditions of the country would justify such an increase and, would it not be wise to wait until that time?

Mr. PUCINSKI. The Congress in its wisdom may want to do that, but I should like to remind the gentleman and perhaps the minority leader that when the question was raised here a moment ago about legislating for a future Congress, the gentleman will please remember that when the concept of minimum standards was adopted in 1938, Congress provided 25 cents an hour immediately, 30 cents an hour a year later, and then it provided 40 cents an hour to go into effect 7 years later, or in 1945. And there was no qualm about legislating by future Congresses at that time. I say that we should approve the committee formula now. If some future Congress wants to give them more, it is up to that Congress.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield for some very brief questions?

Mr. PUCINSKI. May I first finish my statement?

Mr. FRELINGHUYSEN. Just this one question. If the President acted responsibly in advocating an increase of no more than \$1.15 this year, did he, as a candidate for the Presidency of the United States, act irresponsibly in claiming that he was going to seek \$1.25 if he should be elected?

Mr. PUCINSKI. The gentleman is playing on words. The fact of the matter is that the President, as a Senator and a candidate for office, told the American people that he believes the American

workingman is entitled to a minimum of \$1.25, and he has kept that pledge.

Mr. FRELINGHUYSEN. Well, the candidate for President of the United States could certainly be playing with the American people if he did not mean what he said.

Mr. PUCINSKI. On the contrary, the gentleman will recall that the real issue in that campaign was the Republican administration's position that \$1.15 is sufficient, and Mr. Kennedy's position was that \$1.25 was the absolute minimum.

Mr. FRELINGHUYSEN. And the position of the present administration is that \$1.15 is as far as we can go at this time?

Mr. PUCINSKI. At this time, but you will note Mr. Kennedy has not receded from his plea for a permanent \$1.25 an hour in 24 months.

Mr. FRELINGHUYSEN. What is wrong about that?

Mr. PUCINSKI. Nothing. In my opinion, it is a responsible position by the President. I do not care to yield any further, but if the gentleman wants to ask about it later, I will be happy to debate it with him.

This legislation is aimed primarily at retail establishments. Our opponents try to create the impression that the Federal Government will centralize all business, but they very conveniently fail to tell independent businessmen of America that they will have a \$1 million cutoff before they come under the bill.

My times does not permit me at this time to read this statement, but here is a statement of the kind of material and misinformation being sent out by lobbyists who oppose this legislation. One pamphlet proclaims that merchants will have to let their untrained, unskilled help go because they will be priced out of the market and so on. Nothing is further from the truth. We have in this country 1.8 million retail establishments. Now, mind you, there are 1.8 million retail establishments in America. This committee bill as presented to the House today would cover only 100,000 of these stores owned by 15,000 corporations. This 100,000 stores out of 1.8 million in America that would be covered under this act siphon off 78 percent of all the retail business in America. Now, I defy anybody to stand here and tell me that he is for the small independent American businessman and still opposes this concept when these 100,000 stores owned by the large chains are siphoning off 78 percent of all the retail business in this country.

We have in our bill, and quite properly, presented a provision that in the small communities of America—and these are the communities that many Members of Congress represent—where you have a series of businesses which are excluded from this bill because they do below \$1 million gross annually, if there is a chainstore in that community which does less than \$250,000 annual gross volume, even though the rest of his chain may be covered, that individual store would be excluded from coverage along with the independent merchants. We had testimony before the

committee that if a chainstore raises salary standards, all those who may not be covered will have to voluntarily meet those standards to remain competitive for skilled help in small communities. Our committee bill provides relief for the individual chainstore if it is a member of a chain consisting of less than 15 stores. There is a possibility that the committee may offer a further amendment to spread this exemption out to all chainstores in small communities doing less than one-quarter million dollars gross annually regardless of how large the chain corporation may be.

We have heard talk here about violating some fundamental principles when we try to establish the concept of coverage on dollar volume instead of the principle of five or more establishments doing business in two or more States. The dollar volume principle is interwoven throughout our whole philosophy and concept of Government. There is nothing new, nothing revolutionary, no magic in this formula.

The National Labor Relations Board—and my colleagues on this side last year voted for the Landrum-Griffin bill which said, among other things, that the National Labor Relations Board must take jurisdiction over any retail establishment that does in excess of \$500,000, and that the National Labor Relations Board must take jurisdiction over any industrial establishment that does in excess of \$50,000 gross annual business. You were the gentlemen who voted for this bill. You supported this dollar-volume concept in labor-management relations. Why, then, is there any difference today when we suggest that the same formula be applied to this bill?

The Small Business Administration—and many of you on this side have supported it—is set on dollar volume. Many of our defense contracts are given preferential treatment on dollar volume, gross annual dollar volume. And so who is to say that the concept of dollar volume is unrelated to American principle or contrary to some fundamental principles?

I say, Mr. Chairman, that the only way you are going to save the American businessman is to adopt the dollar-volume principle. Let us see what has been said about the most prominent substitute bill being discussed here, the Kitchin-Ayres bill which eliminates the dollar-volume principle, by the American Retail Federation which has among its members 41 State retail associations and 29 national retail associations. These are retailers, these are the people who are going to be affected, these are the people who know retailing better than anyone else. What do they say?

The Kitchin-Ayres bill, which would cover a retail company having five stores in two States, is based on a concept of interstate commerce which is fallacious in its foundation. That bill seeks to create a new concept of what is interstate commerce.

To understand this, simply look in the book entitled "1960 Fairchild's Financial Manual of Retail Stores," which is published by Fairchild Publications, Inc., in New York. It contains financial data on retail stores and tells which companies have stores in more than one State. Leaf through this manual and you will find at least 35 stores

doing a total of \$2 billion in annual sales which would not be covered under Kitchin-Ayres. In it are at least four companies doing over \$100 million which would not be covered, another dozen doing between \$50 million and \$100 million, and the remainder between \$10 million and \$50 million.

Contrast the above stores with a company which would be covered—namely, the W. E. Walker Co. of Columbia, Miss. That company has 20 to 30 stores in 3 States and does a total volume of \$2 million to \$3 million.

Those of you who want to support the Kitchin-Ayres substitute would be wise to ponder these figures.

You are going to exempt under this principle of five or more stores in two or more States a western corporation that does \$2 billion of retail business. Yet you are going to put under coverage a company, because it crosses State lines, that does \$2 or \$3 million worth of business.

I say the only way to bring justice to the American businessman if we are going to extend this coverage is to adopt the principle of dollar volume. This, indeed, will give him the protection he needs.

Let us examine the most frequently mentioned complaint, that foreign competition is creating such a problem in America that we cannot have a Fair Labor Standards Act at this time because these American businessmen are being hurt by foreign competition. I accept that concern. I am just as deeply concerned about this problem as any Member of the Congress. It was for this reason that I supported the theory and concept that in this bill for the first time in the history of this country, as far as I know, we have given the Secretary of Labor the right to conduct an investigation whenever there is a complaint made that foreign imports are, indeed, hurting American retailing, and upon completion of this investigation he is to make a report both to the President and to the Congress, and on the basis of his figures the Congress can take appropriate action. I think we have met this problem in our committee bill.

We talk about inflation. One of the previous speakers mentioned that this bill should not be adopted because of its inflationary impact on the economy of the Nation. Figures prepared for this committee indicate that an increase to \$1.15 for those presently covered would have a three-tenths of 1 percent increase effect on the total wage bill, and an increase of eight-tenths of 1 percent when the increase is to \$1.25 for those not covered.

For the newly covered, the 4.3 million, the increase would be 1.6 percent in wages at \$1 per hour.

May I point out at this time that any way you look at this legislation the net increase in wages under this bill would be less than when Congress approved an increase to \$1 an hour in 1955.

This committee has worked extremely hard. The committee has worked very hard to try to bring you a reasonable, moderate, responsible bill. I hope we will not make the same mistake on this legislation that we made last year. We have heard a great deal of discussion here that if the Democrats had gone

along last year we would have had \$1.15 already, and that we have wasted all this time. But these folks forget that we could not have gone to \$1.15 last year on the Kitchin-Ayres substitute because in the rush of amendments on this very floor in this very well we had adopted an amendment that would have excluded 14 million workers who had been covered under this legislation since 1938.

Mr. AYRES. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I would prefer to finish my statement.

Mr. AYRES. I know the gentleman does not want to make a misstatement. Since the gentleman was not a member of the conference committee, he perhaps does not realize that the first thing Senator Kennedy, the chairman of the committee of conference, did was to remove the Smith amendment.

Mr. PUCINSKI. The gentleman will remember also that under the parliamentary rules of this House that amendment could not have been removed.

Mr. AYRES. The amendment was removed in the conference on agreement.

Mr. SMITH of Iowa. Will the gentleman further identify that as the Frank Smith amendment?

Mr. PUCINSKI. Yes; I will be very happy to identify that as the Frank Smith amendment.

Be that as it may, the fact remains that the following day when that mistake was called to the attention of the House, the sponsor of the amendment had made it very clear that he had no intention of offering such an amendment. We all agreed with him. We knew he did not. All I am pleading now is that when we get down to studying this bill, let us study the committee bill, but let us not try to write this complicated legislation on the floor, because we, indeed, are going to make some other serious mistake. We did last year. There is going to be debate on this bill—there should be debate. There is going to be disagreement—there should be disagreement. When the time comes that the Members of this Congress stop disagreeing, and start thinking in a single cadence, we will have lost that very precious commodity which distinguishes us from all other social orders as free Americans—the right to be different. I do hope, however, that after thoughtful consideration and study of the committee bill, you will come to the conclusion that this committee proposal is the only way to help more Americans to share in the wealth of their Nation.

Mr. AYRES. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from Ohio.

Mr. AYRES. Would the gentleman from Illinois tell me whether or not the statement he made regarding the position of the American Retail Federation was read from a laborgram dated March 20, 1961, signed by James G. Michaux?

Mr. PUCINSKI. That is correct, I read from a laborgram dated March 20, 1961.

Mr. AYRES. Mr. James G. Michaux is the same gentleman who testified along with Mr. Rowland Jones against

the committee bill against any extension of the minimum wage regardless of the name of the bill or of the coverage. If it covered any retail operations, this association is against it.

Mr. PUCINSKI. I thought though that Mr. Michaux's analysis of the Kitchin-Ayres bill was a great deal more devastating than anything in the testimony he presented before the committee regarding the committee bill.

Mr. AYRES. If the gentleman would read the testimony, found on page 250 of the hearings, he will see that the American Retail Federation representatives made it quite clear that they wanted no part of extending the coverage in the retail field.

Mr. PUCINSKI. And they made it even more clear in this laborgram that they disapprove of the Kitchin-Ayres bill to a substantially greater degree.

Mr. AYRES. And the reason for that was they realized that the Roosevelt bill was losing support and the Kitchin-Ayres bill was gaining, and now they want to attack it too.

Mr. PUCINSKI. The gentleman does not agree with the retail federation?

Mr. AYRES. I do not agree with their position that the so-called Kitchin-Ayres substitute would be at all detrimental to the retail industry.

Mr. PUCINSKI. In view of the fact that there are some 41 State organizations and 21 national organizations in the retail federation, people who know this business very well, I would be willing to accept their analysis of the Kitchin-Ayres bill which indicates the inequities and unfairness that it presents to American merchants are vastly more so than any problem that the committee bill might present to them.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. At the very outset of his discussion, the gentleman paid tribute to the fairness with which our committee considered the very many complex questions involved in legislation of this kind. I wonder if the gentleman would tell this committee whether or not there were 3½ days of direct testimony this year in connection with this bill?

Mr. PUCINSKI. That is correct. In my opening remarks, I said as far as direct testimony was concerned, we heard 11 key witnesses. The gentleman will remember this, that we had sent a memorandum or a letter to all interested parties advising them that if they had any testimony that would be different than their testimony last year, the committee would make every effort to hear that testimony—so the statements were accepted in lieu of testimony. But the gentleman will also recall that I said we heard 140 witnesses over a 3-month period last summer in connection with this bill.

Mr. FRELINGHUYSEN. Is it not true that the printed hearings where so much of the testimony was incorporated, or all of the testimony was incorporated, was not through direct witnesses appearing before the committee, and that this testimony was not available to the full

committee prior to our reporting out the bill?

Mr. PUCINSKI. The gentleman is describing a situation that I am not aware of. So far as I am concerned, I have had access to all the testimony, both oral and the statements presented to the committee, and I was guided by that testimony in evaluating this bill.

Mr. FRELINGHUYSEN. The testimony was not available to the gentleman.

Mr. PUCINSKI. The statements of these respective associations were.

Mr. FRELINGHUYSEN. The statements may have been available in the material going back to 1949, but that is still not making it available in such a form that it might be useful to us.

Mr. AYRES. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the question has been raised as to just what effect the \$1 million cutoff would have on the retail merchants throughout the United States. I would like to read the testimony given before the committee by the organization that the gentleman from Illinois [Mr. PUCINSKI], just referred to, and I quote:

Now let us come a little closer to home, in Hagerstown, Md. We took this same situation and went on West Washington Street in Hagerstown, Md. There are 25 stores in the block. Eighteen would be covered under the \$1 million enterprise test; seven would be exempt. The 18 covered have a starting minimum of 93 cents and the 7 exempt have a starting minimum of 83 cents.

You will find that this pattern follows throughout the United States. When you talk about trying to help the low income worker in the retail field when you use the dollar volume test you will find that it is not an equitable test in that respect; but the main thing I am objecting to on the dollar-volume test is that we are giving the Federal Government an opportunity eventually to cover every retail establishment in the United States.

Mr. Saffridge, who is the president of the Retail Clerks Union, in testifying before the committee criticized the Roosevelt bill. He said that \$1 million was entirely too high as a starting point, that it should be \$500,000 as a maximum; but he did say that \$1 million was a start in the right direction.

Mr. AYRES. Mr. Chairman, may I inquire how the time stands?

The CHAIRMAN. The gentleman from Ohio has 2 hours and 22 minutes remaining, and the gentleman from California has 2 hours and 3 minutes remaining.

Mr. AYRES. Does the gentleman from California care to yield?

Mr. ROOSEVELT. I have yielded more time than has the gentleman. I think the gentleman should use more of his time, for it will be unfair to allow time to be accumulated by the other side. I think the gentleman from Ohio should yield unless he has no further speakers.

Mr. AYRES. Mr. Chairman, I yield 5 minutes to the gentleman from Montana [Mr. BATTIN].

Mr. BATTIN. Mr. Chairman, I have heard the farmer discussed here and how his friends in the city went along with

the feed grain bill, and how as a result of that, the members from farming areas should in turn go along with the proposed committee bill on minimum wage. But there is one thing that has not been pointed out, those who supported the feed grain bill were people who do not grow feed grain crops. It seems to me that most of the Members who voted for that bill grew either tobacco, cotton, or some crop other than feed grains. Then we come to another situation. Assuming, and it is only an assumption for the sake of the argument that the feed grain bill is going to benefit the farmer by increasing his income, we are now called upon to pass this bill that will increase the farmer's cost by increasing the cost of everything he consumes.

It seems to me to be a little bit on the ridiculous side to say: We want to increase your income, Mr. Farmer, we want to give you a little bit more through a feed grain bill, then come back within the same week and say: Now, what we want you to do after we have given you this help is to vote for a bill that is going to increase inflation and bring about higher costs to the point where you Mr. Farmer, will be back in exactly the same position as before.

I think the legislation should stand on its merit, and not on sympathy or at least a cry for sympathy that we went along with you, now you have got to go along with us.

I feel certain that the proposal to be made as a substitute or as an amendment to the bill passed out by the committee is going to be a great deal more beneficial to the farming communities than the one being presented now by the Committee on Education and Labor.

Mr. HALEY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] Eighty-three Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 25]

Ashley	Fogarty	O'Konski
Baker	Garnatz	Passman
Barry	Gavin	Price
Bolling	Hall	Rabaut
Breeding	Harvey, Ind.	Rains
Buckley	Hoffman, Mich.	Rivers, S.C.
Cahill	Holifield	Saund
Celler	Horan	Shelley
Coad	Kee	Smith, Miss.
Curtis, Mass.	Kilburn	Smith, Va.
Davis, Tenn.	Kilgore	Steed
Dawson	Landrum	Thompson, La.
Denton	McDonough	Whalley
Dingell	Machrowicz	Wharton
Edmondson	Madden	Willis
Fallon	Magnuson	Wright
Findley	Mason	Zelenko

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. WALTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 3935 and finding itself without a quorum, he had directed the roll to be called, when 380 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The gentleman from Montana [Mr. BATTIN] will proceed.

Mr. BATTIN. Mr. Chairman, just prior to the quorum call I was discussing the question of rural versus city, as far as the present bill is concerned. We were told that the city folks followed through on the feed grain bill and supported it. I would like to refer to the RECORD of March 8, 1961, where one of our colleagues from a city district made this comment:

I am against higher price supports for two basic reasons: First, the idea that the Government can cut production by offering farmers a higher and higher price incentive is to me a false one; and second, I see no logic at all in being part of an effort which can only have one effect—raise food prices to consumers.

Yet we are told they went along, that there was no question, that it was good for the farmer and it was good for us. We are asked now to accept this as a matter of principle, and told that without question we should follow along blindly.

In his remarks opening debate on this bill the Chairman of the full Committee politely implied that if we did not go along we were going to have to pay. Just how we were going to pay was not outlined by the gentleman from New York.

I would like to remind the Committee it was the Congress that put the farmer in the box and now that he is there maybe some Members think it is going to be a little bit easier to manipulate him. I am not going to go along with that concept. The farmer is as much a consumer as anybody in the country.

It was stated during the feed grain debate, if you recall, that he was one of the largest consumers in the country. All I would do is to call the attention of the House to the fact that this farmer would find any increase in the minimum wage a rather difficult economic pill to take. He does produce for us, he does provide for us, and I for one am not going to be intimidated by any remarks made on the floor regardless of who makes them.

The CHAIRMAN. The time of the gentleman from Montana has expired.

Mr. KEARNS. Mr. Chairman, I yield 10 minutes to the gentleman from Nebraska [Mr. MARTIN].

Mr. MARTIN of Nebraska. Mr. Chairman, I rise this afternoon to speak to you in behalf of the millions of American citizens who are shackled by the constant extension of Government controls. This bill is a continuation of that policy; a continuation of the socialistic trend which started in these United States some 30 years ago, and I think it is time that we began to think seriously of this trend and to put a halt to it.

I speak, of course, in opposition to this bill sponsored by the gentleman from California [Mr. ROOSEVELT]. Let me give you a couple of examples: In the first place, he puts retailers under the control of the Federal Government to try to establish the concept that those engaged in a retail business are doing in-

terstate business. Members of the committee, this is a false premise. I do not care whether you place the floor at \$1 million or whether you say they are engaged in two or more States and have five or more stores or what particular formula you use, the results are still exactly the same. You are extending controls to the retailer who is doing business only within his own trade territory.

Mr. Chairman, I happen to be in the lumber business and I own four lumber yards in the State of Nebraska. My home is 50 miles from the Kansas line. If I should happen to buy one more yard 50 miles away from my home over the Kansas line, I would come under the concept of two States and five operations, and yet in my business I operate strictly at retail and I am doing business only within my own trade territory. By no stretch of the imagination can you say that I am engaged in interstate commerce.

One of the results of the Federal Government going into the retail field will be increased unemployment. Let me give you some quotes from statements of the Department of Labor, issued when the minimum wage was increased to \$1 in 1956:

During the period of adjustment to the higher minimum there were significant declines in employment in most of the low-wage industry segments studied.

Let me give you a further quotation:

The increase in the minimum wage to \$1 an hour took place at a time of expanding economic activity and this facilitated adjustment to the minimum wage increase. Had the minimum wage increase become effective during the period of recession, its adverse effects on employment might have been even greater.

That is a quotation from the Department of Labor. We have had many gentlemen on the other side of the aisle constantly reiterate and pound into our ears for the last 12 weeks that we are in a period of recession. Now, that was a quotation from the Department of Labor as to what the results of this bill would be under those conditions.

The average sales clerk in a retail store—and I am speaking of small towns, towns of 25,000 population or less—will sell about as follows: If he sells \$7 worth of merchandise per hour, he is doing a fairly good job. Let me tell you what the cost is, based on \$1 an hour, selling \$7 of merchandise per hour for each employee.

The labor cost is 14.3 percent. At \$1.10 it is 15.7 percent. At \$1.25 it is 17.8 percent; in other words, an increase of 3½ percent in the cost of doing business. Your average department store in the United States is making less than 1 percent net profit today. If you add 3½ percent increase in labor expense you can see where you are going to end up—not in the black, but in the red. That will be the direct result of this bill if it is applied to the retail industry.

Mr. Chairman, let me give some other figures here. The gentleman from Pennsylvania [Mr. DENT] spoke briefly about these and I think they are accurate figures. This is in connection with a survey made in Pennsylvania among retail-

ers and what happened when this increase in the minimum wage in the State of Pennsylvania became effective, on January 15, 1961. In the zone 2 stores, those being stores in cities in Pennsylvania between 10,000 and 500,000 population, the minimum wage was raised from 85 cents to \$1. In the zone 3 stores, those in cities of under 10,000 population, the minimum wage was raised from 75 cents to 90 cents an hour. This increase became effective on January 15, 1961, about 2 months ago. Here are some figures from those stores that were surveyed. The total number of employees in the surveyed stores on January 14, 1961, was 15,663. Remember, this increase became effective on January 15. Two and a half weeks later, on February 4, or in that payroll week, there were 14,681 employees in those same stores, a drop of 6.3 percent in the number of employees.

In regard to the weekly hours worked—I will not give the individual figures—there was a decrease of 5 percent. Here is another tabulation of 200 store units which on January 14, 1961, had a total number of employees of 8,428. On February 4 they had 8,045, a decrease of 4.5 percent. The decrease in the number of hours worked was 5.9 percent.

Here are some figures in depressed counties where your cities are from 10,000 to 500,000. They are in zone 2. In January 1961 the total number of employees was 3,591. In February of 1961 the number was 3,475, or a decrease of 3.2 percent. These are figures taken from surveys of retail stores in the State of Pennsylvania within the last 60 days. It proves without a doubt what has happened with the increase in the minimum wage in that State.

Let me make another point, Mr. Chairman. As an employer, there are only two things you can do when your operating expenses increase. First of all, you are going to try to decrease them. If it is a question of an increase in labor cost, you are going to look around to try to cut down on your labor expenses; in other words, you are going to reduce your payroll. And I am sorry to say that most of the people who would be affected by this type of legislation are the marginal employees, the employees who are least valuable to management and who can least afford to be without a job.

The problem is that you are going to lose part-time employees, women who come into a retail store and work a few hours a week to earn additional money. Those are the people who are going to suffer. That is one result of this type of legislation.

The second result is to increase his returns sufficiently to break even, the employer is going to have to raise the price of his merchandise, and that is going to contribute to inflation. Secretary of Labor Goldberg, in debating with Senator GOLDWATER on TV two or three Saturdays ago, in answer to a question from the Senator in regard to this specific matter, made the statement that the cost of living would be increased 0.8 per-

cent as the result of the passage of this minimum wage bill. This is something to consider. We have been going down this road of inflation for many, many years, and it has to be cut off, it has to be stopped.

One other point: Think seriously for just a moment as to where the demand for this type of legislation is coming from. I was back in my district in Nebraska last week and talked to quite a number of people. I did not find a single person who was asking for this legislation. I have not had a single letter, telegram, or telephone call requesting that this legislation be passed. I think if each one of you would be honest with yourself you would find that there is very little or no demand from the constituents you represent here in Washington for this legislation. Where is it coming from? It is coming from a small handful of greedy men who want to extend further Federal controls over the lives of the citizens of this country. I am sorry to say that there are those among us who would like to take care of our citizens from the cradle to the grave. To that philosophy I am opposed, and because of that I am opposed to this bill.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Nebraska. I yield to the gentleman from Pennsylvania.

Mr. DENT. The gentleman mentioned figures with respect to Pennsylvania. He will note that while I was talking I called attention to those figures and told the House that I had the answers to every one of them. I might say that the employment in every retail store is heavier during the Christmas season and immediately after Christmas because of the cleaning up of inventories, and that it would be lower in every retail establishment in this country that does a Christmas type of business. The retail stores about which the gentleman is talking prove exactly what I am saying. If the gentleman will refer to the statistics I placed in the RECORD during my talk, he will find that the employment increase started in the second week in November and kept climbing until the peak right before the Christmas rush and during Christmas week. Then it started to cut back in the second week in January. Certainly there is a 6-percent differential between January 14 and February 15. It is a natural phenomenon in all retail establishments.

Mr. MARTIN of Nebraska. I beg to differ with the gentleman from Pennsylvania. These figures were taken on January 14, which was 3 weeks after Christmas.

I also call attention to the fact that in the retail industry as a whole throughout the country employment is stable, and that there is a less than 1 percent fluctuation in total employment in the retail industry compared with 12 percent in manufacturing.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Nebraska. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Chairman, I have been very much interested

in this colloquy between the gentleman from Pennsylvania and in the figures which the gentleman now in the well of the House has given us. I wonder if you would care to comment on the testimony of the Secretary of Labor with respect to the effect of this bill as an anti-recessionary measure. You will recall, he claimed there would be a salutary effect as a result of such an increase and that the effect of unemployment, in his opinion, would be minimal. I wonder whether the gentleman agrees with this contention and, if not, how does he feel?

Mr. MARTIN of Nebraska. That does not jibe with the facts. According to the statement I read from our Labor Department a few minutes ago, after the enactment of this increase in 1956, there was substantial unemployment as a result of the increase.

Mr. FRELINGHUYSEN. Would you be in accord then, I might ask the gentleman, that in a recessionary period it would be far more difficult to adjust to an increase in minimum wages than in a time of rising prices such as was the case in the last increase?

Mr. MARTIN of Nebraska. That is absolutely correct, but I am opposed to the extension of Federal controls, in any case, to the retail industry. I do not think it is the proper function of the Federal Government, and I do not think we have any business going into that area.

Mr. CURTIS of Missouri. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Nebraska. I yield to the gentleman from Missouri.

Mr. CURTIS of Missouri. I want to commend the gentleman for his every fine statement in bringing out these facts and statistics in the debate, and also to back up his statement that we have had over a period of years this experience in extending the minimum wage to other areas and increasing the incidence of unemployment as an immediate result. On page 183 of the hearings, there is a quotation from a Labor Department report, and I will read a part of it:

During the period of adjustment to the higher minimum, there were significant declines in employment in most of the low-wage industry segments studied.

In a group of 12 low-wage industry segments, the Department reported a 9-percent employment drop. This group included such industries as sawmills, children's seamless hosiery, cigars, workshirts, and fertilizer.

The point is, I think, every economic study reveals that the overall picture is as the gentleman has pointed out. And I would like to hear some statistics from the other side to refute these very basic facts in regard to the economic impact of minimum wage legislation. I again want to commend the gentleman.

Mr. MARTIN of Nebraska. I thank the gentleman.

Mr. SANTANGELO. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Nebraska. I yield to the gentleman from New York.

Mr. SANTANGELO. As I understand it, the gentleman from Nebraska is opposed to the intercession of the Federal Government in this area of the retail trade.

Mr. MARTIN of Nebraska. That is correct.

Mr. SANTANGELO. And you are in favor of State control of wages in the retail field; are you not?

Mr. MARTIN of Nebraska. This is a matter for State and local control, rather than for the Federal Government, because the retailer is not engaged in interstate commerce. The Supreme Court ruled in 1938 that interstate commerce consisted of the production of goods and the distribution of goods across State lines.

Mr. SANTANGELO. Can you tell me, sir, whether your State has any statutory minimum wage for these workers and whether your State has any wage board for the workers and what protection do the workers of your State have from an exploiting employer? You have none.

Mr. MARTIN of Nebraska. We do not have exploiting employers in the State of Nebraska, sir.

Mr. SANTANGELO. Do you have a minimum wage law in the State of Nebraska?

Mr. MARTIN of Nebraska. No, sir; not to my knowledge.

Mr. SANTANGELO. Do you have a minimum wage board which has fixed any wages for retail workers in the State of Nebraska?

Mr. MARTIN of Nebraska. No; not to my knowledge.

Mr. SANTANGELO. Do you have any protection for workers in the State of Nebraska?

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Nebraska. I yield to the gentleman from California.

Mr. ROOSEVELT. The gentleman, I think, made the observation that there was little or no demand for this type of legislation and he asks whether we had heard of any such demand. I do not say that I always believe completely in the accuracy of the Gallup poll, but when the Gallup poll, as published just a few weeks ago, came out and said that more than 75 percent of the American public were for a minimum wage bill, I do not think it is that inaccurate. I hope the gentleman will give some credence to the voice of the people.

Mr. MARTIN of Nebraska. I should like to point out that in taking polls, questions are often worded in a manner to slant the answers. The polls are not always indicative of the true situation. I believe that may be the case in this Gallup poll, although I have the greatest respect for it.

Mr. ROOSEVELT. At least I can say that in that respect the gentleman agrees with former President Truman—he does not like polls either.

May I also ask the gentleman whether it is not also true that in the January 1961 4-D report this statement is made on page 18:

Information was also obtained on the movement, over the period of adjustment to the \$1 rate, of wages in noncovered industries in six small localities. Here the outward effects were quite limited. For example, in retail trade in the six localities, average hourly earnings in February 1956 were about 97 cents. In contrast, in industries of these

localities whose employees were generally subject to the act, average hourly earnings in February 1956 were \$1.20. By June 1959 average hourly earnings in retail trade had increased to \$1.10, or by 13 percent; and the average for subject industries increased to \$1.42, or by 18 percent. (Average hourly earnings for all retail trade for the United States increased during the same period by 15 percent.)

The six localities that came under this survey showing that they were not just large industry areas are Meridian, Miss.; Dothan, Ala.; Dalton, Ga.; Sunbury-Shamokin, Pa.; Athens, Ga., and Fort Smith, Ark.

Certainly that 4-D report would clearly show that the impact of unemployment and the impact of minimum wages was not anything except beneficial.

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

Mr. ROOSEVELT. Mr. Chairman, I yield 10 minutes to the gentleman from South Carolina [Mr. HEMPHILL].

(Mr. HEMPHILL asked and was given permission to revise and extend his remarks.)

Mr. HEMPHILL. Mr. Chairman, I take this time, and I want to thank the committee for the time, because I think I recognize here the confusion which exists in the attempt here in the House and in this bill to legislate in two entirely separate areas. We are legislating in the first instance in the area declared constitutional by the Supreme Court of the United States, the area of wages; on the other hand, we are also trying to legislate in the field of the extension of coverage. Whether or not you say the extension of coverage is constitutional, you have the attempt both in the committee bill as I read it, and in the Ayres-Kitchin bill as I read it. The extension of coverage in either bill is questionable from a constitutional standpoint.

In an effort to give this House an opportunity to vote on a purely constitutional question I introduced—and I am no expert on wage and hour law, I had had assistance in drawing the legislation—I introduced a bill which bears the number H.R. 5827. That particular legislation deals purely with those people who, whether in the retail trade or not, are engaged in interstate commerce as previously defined by the U.S. Supreme Court.

If we must leave that particular area it seems to me that on the question of the extension of coverage we should take advantage of the opportunity to explore the impact of that extension of coverage.

You will find on page A2007 of yesterday's RECORD, and following pages, the statistics from Dun and Bradstreet which show the net income of the various retail outlets and retail industries in this country. One of the things that concerns me is that in the committee bill we have a dollar line demarcation.

In the Kitchin-Ayres bill we say that if a man has 5 or 10 stores in 2 or more States he is engaged in interstate commerce. Here is an appliance, radio and television dealer. His percentage of net operating profit is 1.1. That means if he does a million dollars' worth of business he makes a net operating profit of \$11,000. We say to the

man who makes \$11,000 with his investment in the business that we are going to draw a line of demarcation and say beyond a million dollars, if you make \$1 over a million dollars you have to pay it, if you make \$999,999 you do not have to pay the minimum wages.

In keeping with what I think was the intention of this committee, and I think it is, I also mentioned in my remarks a thing called standard metropolitan statistical areas of this country.

Now, I know the problems of the people of my small community because as a lawyer I have handled many problems for them. I know a clerk who does not sell \$5 worth of goods many hours of the day. Those are the kind of people in the rural areas of this country. Those are the people we hear talking about unemployment that I am concerned about. So if I get a chance in the parliamentary scramble which is inevitable here I shall offer an amendment. I realize my amendment probably will never be considered because I am not a member of the committee. I wish you would consider it as a part of the duty of the House, taking out of coverage those rural areas where the impact is far more significant than in the city areas, by an amendment to that effect.

We have here before us the retail industry of this country and the differences in the variety of that retail industry. Those are things which have not yet been explored here either in this Congress or in the last Congress. One of our businesses has a certain pattern of consumer buying, another business does not, and rural areas have these problems because of the fact, too, that their trade is not steady. They are not in a high-cost living area, they are not in a high-income area; yet they are competing directly with people who want to go to the city to buy in the fine city stores. We have that problem in the rural areas of my part of the country.

Are you considering those people who are just as good Americans as anybody else when you say you do not recognize the difference in the cost of living, the difference in the cost of overhead, and the difference in average salary, yet make no differentiation except by the dollar line?

I have another problem in my district in connection with this legislation. We have some small family-owned chains. Not only are they family-owned chains, but the local man owns half of the business in the little town I live in. Those particular people under the committee bill and the Kitchin-Ayres bill are coming under the legislation. The committee has put in here 15 or more stores in two or more States, they say even in one State, and they put on it a limit of \$250,000. A filling station on this side of the street has a limit of a million dollars, and the little store on this side of the street, which is part of a chain, has \$250,000.

These are the things that concern me about the pending legislation.

How in the world can we legislate in the area of extension of coverage and be just unless we recognize that we should not pit one part of the industry as

against another? And that is being done here. Washington, for instance, I think, has the highest cost of living any place. I would testify to that. Out in Virginia some place I assume that the cost of living is like it is in my State. Now, is there any differentiation? Is it worthy of consideration of this Congress?

The reason I say this is because if I have the opportunity I intend to offer some amendments to accomplish what I think the committee even wants to accomplish. I do not believe that anybody wants by this legislation to put anybody out of business or to create any unemployment. I refuse to believe that. But, I say that in keeping with that faith and that philosophy, then I think we have to consider whether or not there will be unemployment here as compared with the creation, possibly, of the consumer dollar or better wage over there. It is not fair to consider one and not consider the other. It is not fair not to consider the variety which exists in this greatly differentiated retail industry area.

Now, I have studied the Vinson amendment as best I could, and I would like to ask the gentleman from California [Mr. ROOSEVELT] a question about that. The Vinson amendment included a limitation based on the standard metropolitan statistical area, is that true?

Mr. ROOSEVELT. I do not know exactly what the Vinson amendment does have in it. To the best of my knowledge, however, it does not have the standard statistical test in it.

Mr. HEMPHILL. Well, it has the same metropolitan statistical area test that you have in H.R. 3935.

Mr. ROOSEVELT. As to radio stations only.

Mr. HEMPHILL. If that limitation is good enough for the radio stations in my particular community, why is it not good enough for others who are similarly afflicted with the limitation of operation and limitation of income and limitation of area?

Mr. ROOSEVELT. Well, I would say to the gentleman that the committee in studying the situation in radio and television stations made it applicable only to three particular classes of employees. They were the announcers, the chief engineers, and the news chiefs or the people who headed up the news staff. We had no testimony; nobody came before the committee and suggested the standard statistical basis or metropolitan statistical basis, and therefore we did not have enough information to find out whether we could in any way apply it to the broader concept of the employees in general in the area and in the service industries. Actually, as far as I know, there has been no legislation of any kind. However, there is this information as to what forms a metropolitan area, but it has never been reduced to legislation, and therefore we had very little to go on.

Mr. HEMPHILL. While there has been no legislation on it, there has been and there is available to anybody who is interested maps put out by the U.S. Bureau of the Budget and U.S. Census Bureau in which the area definitions are so plain. It is obvious what there is in the standard metropolitan statistical area and what areas are rural in this country, and the means of delineation are so clear that there can be absolutely no mistake about it. If anybody wants a copy, I have a number of them here.

Would the gentleman consider an amendment along this line if I have an opportunity of introducing it?

Mr. ROOSEVELT. May I say to the gentleman, of course it would be considered very carefully, but I would have to say in all honesty, because it did not receive the full consideration it would need, that I doubt very much whether it would be acceptable to the committee.

Mr. HEMPHILL. I thank the gentleman. I hope the Congress will legislate here only in a constructive manner, to create, to encourage employment. We should never legislate to create unemployment or threaten the businessman with burdensome overhead that his margin of profit can neither absorb nor handle.

If the committee has not considered the difference in operation, costs, personnel utilization, and other factors differentiating the rural from the metropolitan areas, in the retail trade, it should. Meanwhile, acceptance of my amendment would protect any rural stores. I ask that help.

Mr. ROOSEVELT. Mr. Chairman, I yield such time as he may desire to the gentleman from Michigan [Mr. O'HARA].

(Mr. O'HARA of Michigan asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. O'HARA of Michigan. Mr. Chairman, opponents of the committee bill have criticized the new coverage provisions of the bill as being unfair. I believe the coverage provisions of the committee bill are eminently fair.

On the other hand, I believe the new coverage provisions of the Ayres-Kitchin substitute unfairly covers many small chain establishments while not covering their larger competitor who does business in only one State.

There follows a partial list of retail enterprises illustrating this point:

Partial list of large dollar volume retail stores not having 5 or more establishments in 2 or more States (exempt under Ayres-Kitchin substitute)

Store	City and State	Volume	Store	City and State	Volume
City of Paris.....	San Francisco, Calif.....	\$14,000,000	Wiebold Stores.....	Evanston, Ill.....	\$67,000,000
Crowley, Milner & Co.....	Detroit, Mich.....	22,000,000	Webb's City.....	St. Petersburg, Fla.....	29,000,000
Emporium Capwell.....	San Francisco, Calif.....	108,000,000	Zion Coop. Mer. Inst.....	Salt Lake City, Utah.....	26,000,000
Gilechrist Co.....	Boston, Mass.....	22,000,000	Harzfeld's.....	Kansas City, Mo.....	11,000,000
The Higbee Co.....	Cleveland, Ohio.....	52,000,000	Fischer Co.....	Cleveland, Ohio.....	98,000,000
Holmes Co.....	New Orleans, La.....	30,000,000	Lytton's.....	Chicago, Ill.....	16,000,000
Horne Co.....	Pittsburgh, Pa.....	66,000,000	Neiman-Marcus.....	Dallas, Tex.....	41,000,000
J. L. Hudson Co.....	Detroit, Mich.....	150,000,000	Thrifty Drug Stores.....	Los Angeles, Calif.....	115,000,000
Marston Co.....	San Diego, Calif.....	14,000,000	H. C. Bohack Co.....	New York, N.Y.....	171,000,000
Mays, Inc.....	Brooklyn, N.Y.....	57,000,000	Alpha Beta Food Markets.....	La Habra, Calif.....	82,000,000
Meir & Frank.....	Portland, Ore.....	57,000,000	Bayless Markets.....	Phoenix, Ariz.....	48,000,000
Outlet Co.....	Providence, R.I.....	16,000,000	Hill's Supermarkets.....	Farmingdale, N.Y.....	31,000,000
Penn Traffic Co.....	Johnstown, Pa.....	10,000,000	Market Basket, Inc.....	Los Angeles, Calif.....	96,000,000
Rieh's.....	Atlanta, Ga.....	92,000,000	Purity Stores.....	Burlingame, Calif.....	100,000,000
Stix, Baer & Fuller.....	St. Louis, Mo.....	61,000,000	Shopping Bag Food Stores.....	El Monte, Calif.....	84,000,000
Schuster.....	Milwaukee, Wis.....	47,000,000	Miller & Rose.....	Richmond.....	37,000,000
Walker-Scott.....	San Diego, Calif.....	11,000,000			

The short list of large dollar volume enterprises not having five or more establishments in two or more States represents a partial enumeration of very large businesses that would be covered by the committee bill, or by the substitute to be introduced by the gentleman from Oklahoma [Mr. ALBERT], but which would not be covered by the Ayres-Kitchin substitute.

The list of chains is a partial enumeration of small enterprises that, in contrast, would be covered by the Ayres-Kitchin substitute.

However, under the Roosevelt bill, enterprises having less than 15 outlets would not be covered as to those outlets that did a gross business of less than

\$250,000, even though the enterprise did a total business of over \$1 million.

Under the terms of the substitute which, I understand, will be introduced by the gentleman from Oklahoma [Mr. ALBERT], no establishment of any of the enterprises listed would be covered unless that outlet, itself, did a gross business in excess of \$250,000 per year.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)

ALABAMA

Company	Category	Number of stores	Other States of operation
Baxter Stores, Inc.	Clothing and furnishings.	25	Florida, Georgia, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, and New Jersey.
Kenwin Shops, Inc.	do.	20	Georgia, North Carolina, South Carolina.
My Shop, Inc.	do.	41	Georgia, Illinois, Indiana, Louisiana, Mississippi, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
Smart & Thrifty Dresses, Inc.	do.	33	Florida, Louisiana, South Carolina, Texas, and Virginia.
Eleanor Shops, Inc.	do.	40	Georgia, Mississippi, North Carolina, Pennsylvania, South Carolina, and Virginia.
O. P. O. Clothes	do.	34	Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia.
Consolidated Retail Stores, Inc.	do.	29	Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Baker's Shoe Stores	Shoes	22	Florida.
Midland Shoe Co.	do.	38	Arkansas, Illinois, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.
Nettleton Shops, Inc.	do.	45	Most all States.
Danley Furniture Co.	Furniture	12	Florida.
National Manufacture & Stores Corp.	do.	40	Georgia, Louisiana, North Carolina, South Carolina, Tennessee, and Texas.
Haverty Furniture Co.	do.	28	Arkansas, Florida, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, Texas, and Virginia.
Wormser Hat Stores, Inc.	Clothing and furnishings.	42	Arkansas, Colorado, South Dakota, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Virginia Dare Stores, Corp.	do.	46	Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Weiss Bros. Stores, Inc.	do.	19	Georgia, Indiana, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.
Woodrow Stores, Inc.	do.	15	Arizona, Florida, Louisiana, North Dakota, New York.
Pak-A-Sak Service, Inc.	Food supply	48	Louisiana.
W. R. Whitford's 5 cents-\$1 Stores	Variety	6	Kentucky.
Ellis Stores, Inc.	do.	7	Louisiana.
Mathews Paint Co.	Miscellaneous	9	California.
Rogers Toy Shops, Inc.	do.	18	Washington, D.C., Tennessee, Ohio, Florida, Maryland, Georgia, Pennsylvania, Virginia.
Forsyth Fabrics, Inc.	do.	9	Georgia, Illinois, Iowa, Kentucky, Louisiana, Tennessee.
Munford Do-It-Yourself Stores, Inc.	do.	43	Florida, Georgia, North Carolina, South Carolina, Tennessee, Virginia.
Darwin's	Clothing and furnishings.	5	Tennessee.
Hecht's	do.	6	Tennessee.
Numm-Bush Shoe Co.	Shoes	23	Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kentucky, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New York, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Sterchi Bros. Stores, Inc.	Furniture	44	Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee.
U.S. 5-cent-10-cent Stores	Variety	22	Georgia and Tennessee.
Redford Stores, Inc.	do.	26	Do.
Lay & Co., Inc.	do.	18	North Carolina, Georgia, and Tennessee.
W. L. Bentley's 5 cents-\$1 Stores	do.	10	Kentucky and Tennessee.
Kuhn Bros. Co.	do.	43	Kentucky, Mississippi, and Tennessee.
Acme Quality Paint Co.	Miscellaneous	5	Michigan.
The National Hotel Co.	Drug store	14	Indiana, Louisiana, Nebraska, South Carolina, Texas, and Virginia.
David Lee Stores	Variety	17	Georgia and Tennessee.
Fuller Supermarkets, Inc.	Food	9	Tennessee.
Christo's, Inc.	Variety	25	Florida and Georgia.
S. E. McConnell Sons Co.	do.	44	Georgia.
Olan Mills, Inc.	Miscellaneous	35	Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.
Hale Drug Co.	Drugs	14	Arkansas, Georgia, Mississippi, North Carolina, and Tennessee.
Albright & Wood, Inc.	do.	20	Florida and Mississippi.
Rosenblum Shoes, Inc.	Shoes	16	Louisiana.
R. C. Brown Stores	Clothing and furnishings.	5	Louisiana and Mississippi.
Saxon's Candy Kitchen, Inc.	Candy	12	Georgia.
Royal Auto Supply Co.	Auto supply	12	Tennessee.
Kenwin Shops	Clothing and furnishings.	18	Georgia, North Carolina, and South Carolina.
Schwobilt Clothes	do.	29	Florida, Georgia, Louisiana, and Mississippi.
Hub Stores	do.	15	Georgia.
Auto-Lee Stores, Inc.	Auto supply	50	Florida, Louisiana, Mississippi, and Tennessee.
Economy Auto Stores, Inc.	do.	28	Florida, Georgia, and Tennessee.
Royal Auto Supply Co.	do.	12	Tennessee.

ALASKA

King Building Supply.	Hardware	4	Oregon.
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ARIZONA

Sumner Stores Corp.	Clothing	33	Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, Texas, Tennessee, Virginia, and New York.
Town Stores	do.	11	California and New York.
O. P. O. Clothes	Clothing and furnishings.	34	Alabama, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Tanne-Ardan, Inc.	Clothing	36	California, Colorado, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Texas, Utah, Washington, and New York.
National Shoe Co., Ltd.	Shoe	32	California, Nevada, and Oregon.
Roe Bros. Stores, Inc.	do.	46	California, Colorado, Idaho, New Mexico, Nevada, Oregon, Texas, Washington, and Wyoming.
Imperial Hardware Co.	Hardware	15	California.
International Hardware Co.	do.		Texas.
Nettleton Shops, Inc.	Shoes	45	All States.
Given Bros., Inc.	do.	20	New Mexico and Texas.
Barker Bros. Corp.	Furniture	20	California.
Woodrow Stores, Inc.	Clothing and furnishings.	15	Alabama, Florida, Louisiana, North Dakota, and New York.
Magikist Service Corp.	Drycleaning	10	California, Florida, Illinois, Indiana, Massachusetts, Michigan, New York, Ohio, Pennsylvania, Texas, and Wisconsin.
Lawson's Jeweler's, Inc.	Jewelry	20	California.
Welmar, Inc.	Furniture	8	New York, North Carolina, Oklahoma, and Pennsylvania.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

ARIZONA—Continued

Company	Category	Number of stores	Other States of operation
Consumers Mart of America, Inc.	Discount stores	5	California and Illinois.
The Fed-Mart Corp.	do.	7	California and Texas.
Skaggs Drug Center, Inc.	Drugstore	28	Colorado, Idaho, Louisiana, Montana, Nevada, New Mexico, Oklahoma, and Utah.
Circle "K" Drive-In Food Stores	Food	34	New Mexico and Texas.
Lewis Shoe Stores	Shoe	14	Florida, Illinois, Kentucky, and Texas.
Sweetbriar Shops, Inc.	Clothing and furnishings	48	Colorado, Idaho, Montana, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming.
Markson Bros., Inc.	do.	41	California, Colorado, Illinois, Kansas, Maine, Massachusetts, New York, Oklahoma, and Texas.
House of Nine, Inc.	do.	34	California, Texas, Colorado, Michigan, Utah, Missouri, Oregon, and Pennsylvania.
Hartfield Stores, Inc.	do.	45	California, New Jersey, New York, Oregon, Washington, and Hawaii.
Maternity Modes	do.	6	New Mexico and Texas.

ARKANSAS

Newport Stores	Variety	7	Also operates in Missouri.
Friedman's	do.	5	Do.
Horton's 5-10-25-Cent Stores	do.	5	Do.
Nunn-Bush Shoe Co.	Shoestore	23	Also operates in Alabama, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Minnesota, Mississippi, Montana, Nebraska, New York, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Barnett-Levy Co.	Variety	14	Also operates in Tennessee and Mississippi.
Sunflower Stores, Inc.	Food	8	Also operates in Mississippi.
Walton's 5-10 Cent Stores	Variety	11	Also operates in Missouri.
Remnant House (fabrics)	Miscellaneous	14	Also operates in Illinois, Indiana, Kentucky, Missouri, and Tennessee.
Wallace E. Johnson Supply Co.	do.	7	Also operates in Mississippi and Tennessee.
Carpet City, Inc.	do.	6	Also operates in Oklahoma.
Hale Drug Co.	Drugs	14	Also operates in Alabama, Georgia, Mississippi, North Carolina, and Tennessee.
Crank Drug Co.	Drugstore	9	Also operates in Missouri.
United Shoe Stores Co.	Shoes	44	Also operates in Louisiana, Georgia, Texas, Mississippi, Oklahoma, Tennessee, and others.
Gibson Clothing Stores	Clothing and furnishing	4	Also operates in Louisiana.
Adeline Apparel Shops, Inc.	Clothing and furnishings	49	Also operates in Illinois, Indiana, New York, North Carolina, Ohio, Tennessee, Pennsylvania, Virginia, and New Jersey.
Montaldo's	do.	11	Also operates in Colorado, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, and Virginia.
Consolidated Retail Stores, Inc.	do.	29	Also operates in Alabama, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Midland Shoe Co.	Shoes	38	Also operates in Alabama, Illinois, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.
Weiss & Newmann Shoe Co.	do.	50	Also operates in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Texas, and Wisconsin.
Haverty Furniture Co.	Furniture	28	Also operates in Florida, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, Texas, Virginia, and Alabama.
Family Shoe Stores	Shoes	22	Also operates in Oklahoma and Texas.
Geo. E. Keith Co.	do.	14	Also operates in California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
Nettleton Shops, Inc.	do.	45	Also operates in all States.
Wormser Hat Stores, Inc.	Clothing and furnishings	42	Also operates in Alabama, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Karbe's, Inc.	Food supply	12	Also operates in Kansas and Missouri.
Newton Jewelry Co.	Jewelry	8	Also operates in Missouri, Iowa, and Oklahoma.
Perel & Lowenstein	do.	7	Also operates in Kentucky and Tennessee.
S. & Q. Clothiers	Clothing and furnishings	9	Also operates in Oklahoma and Texas.
Palais Royal, Inc.	do.	10	Also operates in Louisiana and Texas.
Southern Supply, Inc.	Auto supply	6	Also operates in Oklahoma.

CALIFORNIA

Gramont Co., Inc.	Clothing and furnishings	9	Also operates in Illinois, Maryland, Michigan, Missouri, New Jersey, New York, and Pennsylvania.
Town Stores	Clothing	11	Also operates in Arizona and New York.
The Custom Shops	Clothing and furnishings	26	Also operates in District of Columbia, Illinois, Maryland, Michigan, Minnesota, New Jersey, New York, Ohio, and Pennsylvania.
O.P.O. Clothes	do.	34	Also operates in Alabama, Arizona, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Tanne-Arden Inc.	Clothing	36	Also operates in Arizona, Colorado, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Texas, Utah, New York, and Washington.
Brooks Bros. Clothing	Clothing and furnishings	7	Also operates in Illinois, Massachusetts, and New York.
Duudee Smart Clothes, Inc.	do.	15	Also operates in New York, Pennsylvania, Utah, and Washington.
George E. Keith Co.	Shoes	14	Also operates in Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
French, Shriner & Urner	Shoe stores	17	Also operates in Massachusetts, Minnesota, New York, Ohio, and Pennsylvania.
National Shoe Co., Ltd.	Shoe	32	Also operates in Arizona, Nevada, and Oregon.
Roe Bros. Stores, Inc.	do.	46	Also operates in Arizona, Colorado, Idaho, New Mexico, Nevada, Oregon, Texas, Washington, and Wyoming.
Imperial Hardware Co.	Hardware	15	Also operates in Arizona.
Zukor's	Clothing and furnishings	16	Also operates in Oregon, New York, and Washington.
McMahan's Furniture Co.	Furniture	37	Also operates in Idaho and Nevada.
Barker Bros. Corp.	do.	20	Also operates in Arizona.
Riviera Sofa Bed Co.	do.	5	Also operates in Nevada.
J. & J. Slater	Shoes	8	Also operates in District of Columbia, Illinois, New Jersey, and New York.
Nettleton Shops, Inc.	do.	45	Also operates in all States.
Geo. E. Keith Co.	do.	14	Also operates in Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
Magikist Service Corp.	Dry cleaning	10	Arizona, Florida, Illinois, Indiana, Massachusetts, Michigan, New York, Ohio, Pennsylvania, Texas, and Wisconsin.
French, Shriner & Urner	Shoes	17	Also operates in Massachusetts, Minnesota, New York, Ohio, and Pennsylvania.
Nunn-Bush Shoe Co.	Shoe store	23	Also operates in Alabama, Arkansas, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

CALIFORNIA—Continued

Company	Category	Number of stores	Other States of operation
Mathews Paint Co.	Miscellaneous	9	Also operates in Arizona.
Wallpapers, Inc.	do.	5	Also operates in Oregon and Washington.
Sherman Clay & Co.	do.	23	Do.
Page Co., Inc.	Clothing and furnishings	9	Also operates in Michigan, Ohio, and Texas.
Lyon & Healy, Inc. (musical merchandise)	Miscellaneous stores	11	Also operates in Illinois, Indiana, Ohio, and New York.
Gensler-Lee Diamonds	Jewelry	26	Also operates in Nevada.
Lawson's Jeweler's, Inc.	do.	20	Also operates in Arizona.
Rogers Jewelry Co., Inc.	do.	8	Also operates in Nevada and Oregon.
Dick Tyrrell Jewelers, Inc.	do.	11	Also operates in Washington.
Weisfeld's, Inc.	do.	32	Also operates in Idaho, Oregon, and Washington.
Funk's 5 Cent-\$1 Stores	Variety	13	Also operates in Idaho and Washington.
W. & J. Sloane, Inc.	Furniture	11	Also operates in Connecticut, District of Columbia, New Jersey, and New York.
The Fed-Mart Corp.	Discount stores	7	Also operates in Arizona and Texas.
Consumers Mart of America, Inc.	do.	5	Also operates in Arizona and Illinois.
The Matlock Stores	Variety	6	Also operates in Colorado, Kansas, and Oklahoma.
Nordstrom's, Inc.	Shoe store	18	Also operates in Oregon and Washington.
Goubaud de Paris, Inc.	Miscellaneous	28	Also operates in New York, Connecticut, Washington, D.C., Florida, New Jersey, Pennsylvania, and Canada.
Bennett's (paints)	do.	8	Also operates in Idaho and Utah.
Longs Stores	Drugstore	15	Also operates in Hawaii.
The Owl Drug Co.	do.	31	Also operates in Oregon.
Concord Drug Store, Inc.	do.	8	Also operates in Nevada.
Milton F. Kreis Drug Stores	do.	5	Also operates in Ohio.
Pay Less Stores	Drugs	18	Also operates in Idaho, Oregon, and Washington.
Joseph Magnin Co., Inc.	Clothing and furnishings	15	Also operates in Nevada.
Motherhood Maternity Shops, Inc.	do.	21	Also operates in Oregon.
Markson Bros, Inc.	do.	41	Also operates in Arizona, Colorado, Illinois, Kansas, Maine, Massachusetts, New York, Oklahoma, and Texas.
Lanz of California, Inc.	do.	11	Also operates in Nevada.
House of Nine, Inc.	do.	34	Also operates in Arizona, Texas, Colorado, Michigan, Utah, Missouri, Oregon, and Pennsylvania.
Hartfield Stores, Inc.	do.	45	Also operates in Arizona, New Jersey, New York, Oregon, Washington, and Hawaii.
Morrow's Nut House Corp.	Candy stores	5	Also operates in Oregon and Utah.
Tire Mart Stores Corp.	Auto supply	27	Also operates in New Jersey, New York, Pennsylvania, and Illinois.

COLORADO

Montaldo's	Clothing and furnishings	11	Also operates in Arkansas, Missouri, New Jersey, North Carolina, Oklahoma, and Virginia.
Tanne-Arden, Inc.	Clothing	36	Also operates in Arizona, California, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Texas, Utah, Washington, and New York.
Geo. E. Keith Co.	Shoes	14	Also operates in Arkansas, California, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
L. Goldman Shoe Co.	do.	5	Also operates in Nebraska, South Dakota, and Wyoming.
Roe Bros. Stores, Inc.	do.	46	Also operates in Arizona, California, Idaho, New Mexico, Nevada, Oregon, Texas, Washington, and Wyoming.
Rollnick Shoe Co.	do.	9	Also operates in Idaho, Utah, and Wyoming.
S. A. Foster Lumber Co.	Hardware	9	Also operates in Nebraska and Wyoming.
Wormser Hat Stores, Inc.	Clothing and furnishings	42	Also operates in Alabama, Arkansas, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Nettleton Shops, Inc.	Shoes	45	Also operates in all States.
L. A. Sullivan Stores	Variety	6	Also operates in Nebraska.
Nunn-Bush Shoe Co.	Shoes	23	Also operates in Alabama, Arkansas, California, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Aeme-Harding Glass, Inc.	Miscellaneous stores	16	Also operates in Iowa, Kansas, Missouri, and Nebraska.
Caldwell's, Inc.	do.	7	Also operates in Kansas and Nebraska.
Gem, Inc.	Discount stores	7	Also operates in Hawaii, Kansas, Missouri, Minnesota, and Pennsylvania.
The Matlock Stores	Variety	6	Also operates in California, Kansas, and Oklahoma.
Skaggs Drug Center, Inc.	Drugstore	28	Also operates in Arizona, Idaho, Louisiana, Montana, Nevada, New Mexico, Oklahoma, Texas, and Utah.
Brown's Shoe Fit Co.	Shoes	40	Also operates in Iowa, Kansas, Missouri, Nebraska, and North Dakota.
Schaffer's	Clothing and furnishings	8	Also operates in Iowa, Minnesota, Nebraska, and Texas.
Sweetbriar Shops, Inc.	do.	48	Also operates in Arizona, Idaho, Montana, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming.
Conrad's, Inc.	do.	11	Also operates in Idaho, Montana, Oregon, Utah, Washington, and Wyoming.
Markson Bros., Inc.	do.	41	Also operates in California, Arizona, Illinois, Kansas, Maine, Massachusetts, New York, Oklahoma, and Texas.
House of Nine, Inc.	do.	34	Also operates in California, Arizona, Texas, Colorado, Michigan, Utah, Oregon, and Pennsylvania.
Stickney's Inc.	Auto supply	10	Also operates in Nebraska and Wyoming.

CONNECTICUT

Albrecht's Retail Stores, Inc.	Clothing and furnishings	18	New Jersey and New York.
Polly Perrey Stores, Inc.	do.	20	Pennsylvania.
Puritan Federal Clothing Stores, Inc.	do.	46	Illinois, Indiana, Maine, Massachusetts, Michigan, New Hampshire, Ohio, Pennsylvania, and Vermont.
Ripley Clothes	Clothing	41	District of Columbia, Massachusetts, Missouri, New Jersey, New York, Pennsylvania, and Rhode Island.
Roger Kent, Inc.	do.	13	Massachusetts, New York, and Pennsylvania.
Best & Co., Inc.	Clothing and furnishings	19	District of Columbia, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Virginia.
Morrison Stores Corp.	do.	12	Delaware, Indiana, Michigan, New York.
Cosmo Hosiery Shops	do.	7	New Jersey and New York.
Millinery Stores	do.	27	District of Columbia, Illinois, Indiana, Minnesota, Ohio, Tennessee, and Texas.
P & Q Shops, Inc.	do.	9	Massachusetts, New Hampshire, and Rhode Island.
Jane Lee Stores, Inc.	do.	38	Illinois, Indiana, Kansas, and Kentucky.
Lewis Apparel Stores, Inc.	do.	35	New York, Kansas, Massachusetts, Michigan, North Carolina, Ohio, and Oklahoma.
Parkfield Shops, Inc.	do.	10	Ohio and Pennsylvania.
Druss Stores	do.	6	New Hampshire, New Jersey, and New York.
J. Baker, Inc.	Shoes	14	Massachusetts and Vermont.
London Character Shoes	do.	29	New Jersey and New York.
Morton's Shoe Stores, Inc.	do.	15	Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

CONNECTICUT—Continued

Company	Category	Number of stores	Other States of operation
Perry's Shoes	Shoes	14	New Jersey and New York.
Shelbro, Inc.	do.	5	New York, Rhode Island, and Virginia.
Taneu Shoe Co.	do.	6	Massachusetts and New York.
Tredwell Shoe Corp.	do.	26	Massachusetts and New Hampshire.
Carlisle Hardware Co.	Hardware	12	Massachusetts.
County Hardware Corp.	do.	5	New York.
Diamond National Corp.	do.	26	Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
Kay's-Newport, Inc.	Shoes	21	Massachusetts, New York, and Rhode Island.
Unger's Hosiery & Frocks, Inc.	Clothing and furnishings	11	Massachusetts.
S. S. Pierce Co.	Food Supply	9	Do.
Food Marts, Inc.	do.	6	Do.
Nettleton Shops, Inc.	Shoes	45	All States.
J. Baker, Inc.	do.	14	Massachusetts and Vermont.
Tanen Shoe Co.	do.	6	Massachusetts and New York.
Tredwell Shoe Corp.	do.	26	Connecticut, Massachusetts, and New Hampshire.
J. A. Tepper Co.	Variety	5	Massachusetts.
M. N. Landau Stores, Inc.	do.	20	New York, Indiana, Massachusetts, Michigan, New Hampshire, New Jersey, North Carolina, and Texas.
Castro Convertible Corp.	Furniture	47	New York, Florida, Maryland, Michigan, New Jersey, Pennsylvania, District of Columbia, and Rhode Island.
M. H. Lamston, Inc.	Variety	17	New Jersey and New York.
Nunu-Bush Shoe Co.	Shoes	23	Alabama, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Allied Shoe Co.	do.	33	Massachusetts, Maine, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, and Rhode Island.
Morton's Shoe Stores, Inc.	do.	15	Massachusetts, Delaware, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Laundercenter Corp.	Dry cleaning	13	Massachusetts, New Jersey and New York.
Johnny-on-the-Spot	do.	15	New York.
Royce Superior Laundry, Inc.	do.	15	Massachusetts.
Sparkle Cleansers, Inc.	do.	35	Do.
W. & J. Sloane, Inc.	Furniture	11	California, District of Columbia, New Jersey, and New York.
Hone Dew Food Stores, Inc.	Food	9	New York and New Jersey.
Popular Markets, Inc.	do.	13	Massachusetts.
Market Basket Stores, Inc.	do.	12	Do.
Growers Outlet, Inc.	do.	13	Do.
Tower Marts, Inc.	Discount Stores	12	Washington, D.C., Maryland, Massachusetts, New Jersey, and Pennsylvania.
Arlan's Department Stores, Inc.	do.	11	Connecticut, Kentucky, Massachusetts, Michigan, New York, and Ohio.
New England Stores	Variety	7	Massachusetts.
Camera Craft, Inc.	Miscellaneous	8	New York.
Raphan Carpet Corp.	do.	15	New Jersey and New York.
Goubaud de Paris, Inc.	do.	28	New York, California, Washington, D.C., Florida, New Jersey, Pennsylvania, and Canada.
Wadsworth, Howland and Co.	do.	9	Massachusetts.
My Maternity Shop, Inc.	Clothing and furnishings	45	New York, Ohio, Pennsylvania, West Virginia, Ontario and Quebec, Canada.
Outlet Millinery Co., Inc.	do.	5	Maine and Massachusetts.
Natelson Bros., Inc.	do.	6	New Jersey and New York.
Stevens Retail Stores, Inc.	do.	14	Do.
Kennedy's, Inc.	do.	16	Maine, Massachusetts, New Hampshire, and Rhode Island.
Lee Shops	do.	8	Massachusetts.
Prudence Clothes, Inc.	do.	8	Maine, Massachusetts, and New Hampshire.
Stork Time, Inc.	do.	7	Massachusetts and Rhode Island.
Beverly's Inc., Shoppers World	do.	5	Massachusetts.
Youth Centre Stores, Inc.	do.	9	Do.
Do.	do.	9	Connecticut.
Benny's, Inc.	Auto supply	21	Massachusetts, Rhode Island.
Strauss Stores Corp.	do.	42	New York.

DELAWARE

Felsway Shoe Corp.	Shoes	37	Also operates in District of Columbia, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and South Carolina.
Cranes-Mayos Clothes, Inc.	Clothing and furnishings	40	Also operates in Georgia, Illinois, Indiana, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
Morrison Stores Corp.	do.	12	Also operates in Connecticut, Indiana, Michigan, and New York.
Irving O. Livingston, Inc.	do.	16	Also operates in Illinois and Indiana.
Morton's Shoe Stores, Inc.	Shoes	15	Also operates in Connecticut, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Wilbur-Rogers, Inc.	Clothing and furnishings	33	Also operates in District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
Williams Retail Stores, Inc.	do.	7	Also operates in New Jersey and Pennsylvania.
Polan's 5¢-1.00 Stores	Variety	13	Also operates in District of Columbia, Florida, Maryland, and Pennsylvania.
M. H. Fishman Co., Inc.	do.	47	Also operates in Maine, Massachusetts, New Hampshire, New Jersey, Vermont, Virginia, New York, Ohio, and Pennsylvania.
Nettleton Shops, Inc.	Shoes	45	Also operates in most States.
Alfred H. Cohen & Son	do.	6	Also operates in New Jersey and Pennsylvania.
J. B. Van Selver Co.	Furniture	7	Do.
Liebman Furniture Co.	do.	8	Also operates in Pennsylvania.
Morton's Shoe Stores, Inc.	Shoes	15	Also operates in Massachusetts, Connecticut, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Adams Clothes, Inc.	Clothing and furnishings	16	Also operates in Pennsylvania and New Jersey.
Rockower Bros., Inc.	do.	25	Also operates in New Jersey, New York, Pennsylvania, and Virginia.
B. J. Hoy 5¢ & 10¢ Stores, Inc.	Variety	10	Also operates in Pennsylvania.
National 5¢ & 10¢ Stores, Inc.	do.	7	Also operates in Maryland and New Jersey.
Bon Ton Wallpaper Co., Inc.	Miscellaneous	7	Also operates in Pennsylvania.
M. Buten & Sons	do.	19	Also operates in New Jersey and Pennsylvania.
Sileo Cut Price Stores, Inc.	Drugs	50	Also operates in Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia.
Terry Shops	Clothing and furnishings	24	Also operates in New Jersey, Maryland, New York, and Virginia.
Penn-Jersey Auto Stores, Inc.	Auto supply	27	Also operates in District of Columbia, New Jersey, and Pennsylvania.
Best Auto Supply, Inc.	do.	6	Also operates in Pennsylvania.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

DISTRICT OF COLUMBIA

Company	Category	Number of stores	Other States of operation
Morton's.....	Clothing and furnishings..	5	Maryland and Virginia.
Best & Co., Inc.....	do.....	19	Connecticut, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Virginia.
Hofstadter & Albert Millinery Corp.....	do.....	7	Maryland, Ohio, Pennsylvania, and Virginia.
Tall Apparel Shops.....	Clothing.....	7	Maryland, Massachusetts, Michigan, Minnesota, New York, and Pennsylvania.
Ripley Clothes.....	do.....	41	Connecticut, Massachusetts, Missouri, New Jersey, New York, Pennsylvania, and Rhode Island.
The Custom Shops.....	Clothing and furnishings..	26	California, Illinois, Maryland, Michigan, Minnesota, New Jersey, New York, Ohio, and Pennsylvania.
Millinery Stores.....	do.....	27	Connecticut, Illinois, Indiana, Minnesota, Ohio, Tennessee, and Texas.
Cardinal Neckwear, Inc.....	do.....	16	Florida, Illinois, Massachusetts, New Jersey, and New York.
Consolidated Retail Stores, Inc.....	do.....	29	Alabama, Arkansas, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
David's Specialty Shops, Inc.....	do.....	15	New York, Ohio, and Virginia.
Felsner Shoe Stores.....	Shoes.....	13	Maryland and Virginia.
Fellsway Shoe Corp.....	do.....	37	Delaware, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and South Carolina.
I Miller Salons.....	do.....	14	Florida, Illinois, Maryland, New Jersey, New York, and Pennsylvania.
Heehinger Co.....	Hardware.....	6	Maryland and Virginia.
People's Hardware Stores.....	do.....	419	Alabama, Arkansas, Colorado, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Worinser Hat Stores, Inc.....	Clothing and furnishings..	42	Delaware, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
Wilbur-Rogers, Inc.....	do.....	38	California, Illinois, New Jersey, and New York.
J & J Slater.....	Shoes.....	8	Maryland and Virginia.
Nathan & Sylvia Robin, Inc.....	Dry cleaning.....	14	Do.
Elite Laundry & Cleaning Co.....	do.....	10	Do.
Blue Ribbon Laundry.....	do.....	28	Do.
Polan's 5-cent-\$1 Stores.....	Variety.....	13	Florida, Delaware, Maryland, and Pennsylvania.
Market Tire Co.....	Miscellaneous stores.....	8	Maryland and Virginia.
George's Warehouse Supermarkets.....	Miscellaneous.....	7	Virginia.
Home, Inc. (paints, glass, and tile).....	do.....	10	Virginia and Maryland.
Ritz Camera Centers.....	do.....	7	Maryland, Pennsylvania, and New York.
Rogers Toy Shops, Inc.....	do.....	18	Tennessee, Ohio, Florida, Alabama, Maryland, Georgia, Pennsylvania, and Virginia.
Stidham Tire Stores.....	do.....	7	Maryland and Virginia.
Charles G. Stott Co., Inc.....	do.....	6	Do.
W. R. Winslow Co. (paints).....	do.....	8	Do.
Robertson's 5-cent-10-cent Stores, Inc.....	Variety.....	5	Virginia.
Castro Convertible Corp.....	Furniture.....	47	Connecticut, Florida, Maryland, Michigan, New Jersey, New York, Pennsylvania, and Rhode Island.
W. & J. Sloane, Inc.....	do.....	11	California, Connecticut, New Jersey, and New York.
Tower Marts, Inc.....	Discount stores.....	12	Connecticut, Maryland, Massachusetts, New Jersey, and Pennsylvania.
Dalmo Sales Co.....	do.....	5	Maryland and Virginia.
S. N. McBride Co., Inc.....	Variety.....	6	Maryland.
H. S. King Co.....	do.....	5	Maryland and Virginia.
Standard Drug Co.....	Drugstore.....	13	Virginia.
Goubaud de Paris, Inc.....	Miscellaneous.....	28	California, Connecticut, Florida, New Jersey, New York, Pennsylvania, and Canada.
Brentano's Inc.....	do.....	13	Maryland, New Jersey, Virginia, and New York.
Pete Moore Appliance Center.....	do.....	10	Kentucky, Pennsylvania, Tennessee, and Virginia.
Metro Drug Stores.....	Drugstore.....	10	Virginia and Maryland.
Save-Mor Drugs, Inc.....	do.....	10	Virginia.
Dart Drug Corp.....	do.....	13	Maryland and Virginia.
Jelleff's, Inc.....	Clothing and furnishings..	6	Do.
Blechman's Kopy Kat, Inc.....	do.....	5	Maryland.
Beyda's.....	do.....	5	Do.
Webster Clothes, Inc.....	do.....	19	Maryland, Indiana, Kentucky, New Jersey, North Carolina, Ohio, Virginia, and West Virginia.
Casual Corner, Inc.....	do.....	6	Maryland.
Penn-Jersey Auto Stores, Inc.....	Auto supply.....	27	Delaware, New Jersey, and Pennsylvania.
The Abel Corp.....	do.....	36	Iowa, Indiana, Maryland, Michigan, Ohio, Pennsylvania, Texas, and West Virginia.
Market Tire, Inc.....	do.....	8	Maryland and Virginia.

FLORIDA

Good-Val Stores Corp.....	Clothing and furnishings..	26	Georgia, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, South Carolina, and Virginia.
Smart & Thrifty Dresses, Inc.....	Clothing.....	33	Alabama, Louisiana, South Carolina, Texas, and Virginia.
O.P.O. Clothes.....	Clothing and furnishings..	34	Alabama, Arizona, California, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Sumner Stores Corp.....	Clothing.....	33	Alabama, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, Tennessee, Virginia, and New York.
Benhil Shirt Shops, Inc.....	Clothing and furnishings..	24	New York and Puerto Rico.
Blackton 5th Avenue, Ltd.....	do.....	10	New York.
Bonwit Teller.....	do.....	8	Illinois, Massachusetts, New York, and Ohio.
Cardinal Neckwear, Inc.....	do.....	16	District of Columbia, Illinois, Massachusetts, New Jersey, and New York.
I. Miller Solons.....	Shoes.....	14	District of Columbia, Illinois, Maryland, New York, and Pennsylvania.
Kitty Kelly Shoe Corp.....	do.....	39	Illinois, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, and Pennsylvania.
Baker's Shoe Stores.....	do.....	22	Alabama.
H. B. Phillips, Inc.....	do.....	26	North Carolina and South Carolina.
Nettleton Shops, Inc.....	do.....	45	All States.
Whitehouse & Hardy.....	Clothing and furnishings..	8	Michigan and New York.
Woodrow Stores, Inc.....	do.....	15	Alabama, Arizona, Louisiana, North Dakota, and New York.
Virginia Dare Stores, Corp.....	do.....	46	Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Wisconsin, and Alabama.
Danley Furniture Co.....	Furniture.....	12	Alabama.
Mather Bros. Stores.....	do.....	25	Georgia and South Carolina.
Haverty Furniture Co.....	do.....	28	Georgia, Alabama, Arkansas, Louisiana, North Carolina, Tennessee, South Carolina, Texas, and Virginia.
Jordan Furniture Co, Inc.....	do.....	5	Georgia.
Magikist Service Corp.....	Drycleaning.....	10	Arizona, California, Illinois, Indiana, Massachusetts, Michigan, Ohio, New York, Pennsylvania, Texas, and Wisconsin.
Big "B" One Hour Cleaners.....	do.....	15	Illinois, Iowa, Kentucky, Missouri, Tennessee, and Virginia.
Polan's 5¢-\$1 Stores.....	Variety.....	13	Delaware, Maryland, District of Columbia, and Pennsylvania.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

FLORIDA—Continued

Company	Category	Number of stores	Other States of operation
Duval Jewelry Co.	Jewelry	20	Georgia.
Rogers Toy Shops, Inc.	Miscellaneous	18	District of Columbia, Tennessee, Ohio, Alabama, Maryland, Georgia, Pennsylvania, and Virginia.
Munford Do-It-Yourself Stores, Inc.	do	43	Alabama, Georgia, North Carolina, South Carolina, Tennessee, and Virginia.
Sterchi Bros. Stores, Inc.	Furniture	44	Alabama, Georgia, Kentucky, North Carolina, South Carolina, and Tennessee.
John Mullins & Sons, Inc.	do	17	New York, South Carolina, and Mississippi.
Castro Convertible Corp.	do	47	Maryland, Michigan, New Jersey, New York, Pennsylvania, Rhode Island, Connecticut, and District of Columbia.
Nunn-Bush Shoe Co.	Shoes	23	Alabama, Arkansas, California, Connecticut, Colorado, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Georgia, and Wisconsin.
Masters, Inc.	Discount stores	10	New Jersey, New York, and Pennsylvania.
Van H. Priest Co.	Variety	17	Georgia.
Christo's Inc.	do	25	Alabama and Georgia.
Dixieland Stores, Inc.	do	13	Georgia.
Lewis Shoe Stores	Shoes	14	Arizona, Illinois, Kentucky, and Texas.
Goubaud de Paris, Inc.	Miscellaneous	28	California, Connecticut, Washington, D.C., New Jersey, New York, Pennsylvania, and Canada.
Olan Mills, Inc.	do	35	Alabama, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.
Albright & Wood	do	20	Alabama and Mississippi.
Baxter Stores, Inc.	Clothing and furnishings	25	Georgia, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, New Jersey, and Alabama.
John Baldwin, Inc.	do	5	South Carolina.
The Andover Shops	do	6	Massachusetts.
Mothers Beautiful	do	5	Georgia.
Bottom Dollar Co.	do	8	Do.
Young America	do	6	Maine.
Kilgore & Hurd, Inc.	do	5	Michigan.
United Shirt Distributors, Inc.	do	39	Michigan, New York, and Ohio.
Bramson, Inc.	do	10	Illinois.
Schwoblt Clothes	do	29	Alabama, Georgia, Louisiana, and Mississippi.
Fremac's	do	23	Georgia.
Auto Lec Stores, Inc.	Auto supply	50	Alabama, Louisiana, Mississippi, and Tennessee.
Economy Auto Stores, Inc.	do	28	Alabama, Georgia, and Tennessee.

GEORGIA

Good-Val Stores Corp.	Clothing and furnishings	26	Florida, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, South Carolina, and Virginia.
Kenwin Shops, Inc.	do	20	Alabama, North Carolina, and South Carolina.
My Shop, Inc.	do	41	Alabama, Illinois, Indiana, Louisiana, Mississippi, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
Sumner Stores Corp.	Clothing	33	Alabama, Arizona, Florida, Louisiana, Mississippi, South Carolina, Texas, Tennessee, Virginia, and New York.
Cranes-Mayos Clothes, Inc.	Clothing and furnishings	40	Delaware, Illinois, Indiana, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
O.P.O. Clothes	do	34	Alabama, Arizona, California, Florida, Louisiana, Maryland, Mississippi, North Carolina, Tennessee, Texas, Virginia, West Virginia, Pennsylvania, and South Carolina.
Eleanor Shops, Inc.	do	40	Alabama, Mississippi, North Carolina, Pennsylvania, South Carolina, and Virginia.
M. & W. Martin Co., Inc.	do	16	Iowa, Kansas, Minnesota, Montana, and North Carolina.
Bomar Shoe Co.	Shoes	8	North Carolina and South Carolina.
Geo. E. Keith Co.	do	14	Arkansas, California, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
Morton's Shoe Stores, Inc.	do	15	Connecticut, Delaware, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Virginia Dare Stores Corp.	Clothing and furnishings	46	Alabama, Florida, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Weiss Bros. Stores, Inc.	do	19	Alabama, Indiana, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.
Wormser Hat Stores, Inc.	do	42	Alabama, Arkansas, Colorado, District of Columbia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Family Booterie	Shoes	8	Tennessee.
Mather Bros. Stores	Furniture	25	Florida and South Carolina.
National Manufacture & Stores Corp.	do	40	Alabama, Louisiana, North Carolina, South Carolina, Tennessee, and Texas.
Haverty Furniture Co.	do	28	Alabama, Arkansas, Florida, Louisiana, North Carolina, South Carolina, Tennessee, Texas, and Virginia.
Maxwell Bros., Inc.	do	34	North Carolina and South Carolina.
Jordan Furniture Co., Inc.	do	5	Florida.
Buehler Markets	Food supply	20	Illinois, Iowa, Massachusetts, Missouri, Nebraska, Pennsylvania, and Tennessee.
Nettleton Shops, Inc.	Shoes	45	All States.
Duval Jewelry Co.	Jewelry	20	Florida.
Rogers Toy Shops, Inc.	Miscellaneous	18	District of Columbia, Tennessee, Ohio, Florida, Alabama, Pennsylvania, and Virginia.
Forsyth Fabrics, Inc.	do	9	Illinois, Iowa, Kentucky, Louisiana, Tennessee, and Alabama.
Munford Do-It-Yourself Stores, Inc.	do	43	Alabama, Florida, North Carolina, South Carolina, Tennessee, and Virginia.
Sterchi Bros. Stores, Inc.	Furniture	44	Alabama, Florida, Tennessee, Kentucky, North Carolina, and South Carolina.
Stovall's 5¢-10¢-25¢ Stores	Variety	5	North Carolina.
Maek's 5¢-10¢-25¢ Stores, Inc.	do	31	Virginia and South Carolina.
Nunn-Bush Shoe Co.	Shoes	23	Alabama, Arkansas, California, Connecticut, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Morton's Shoe Stores, Inc.	do	15	Massachusetts, Connecticut, Delaware, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
United 5¢-10¢ Stores, Inc.	Variety	27	South Carolina.
Wilson's 5¢-10¢-25¢ Stores	do	7	Virginia.
Red Food Stores, Inc.	Food	15	Tennessee.
The Home Stores, Inc.	do	27	Tennessee.
Lay & Co., Inc.	Variety	18	North Carolina, Tennessee, and Alabama.
Economy 5-cent-1¢ Stores	do	6	Tennessee.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute) — Continued

GEORGIA—Continued

Company	Category	Number of stores	Other States of operation
Harper's 5-cent-10-cent Stores.....	Variety.....	12	South Carolina.
Cassels United Stores, Inc.....	do.....	17	North Carolina and South Carolina.
Redford Stores, Inc.....	do.....	26	Tennessee and Alabama.
U. S. 5-cent-10-cent Stores.....	do.....	22	Do.
Bower's Stores.....	Discount stores.....	12	Kentucky, North Carolina, and Tennessee.
David Lee Stores.....	Variety.....	17	Alabama and Tennessee.
Van H. Priest Co.....	do.....	13	Florida.
Dixieland Stores, Inc.....	do.....	17	Do.
Christo's Inc.....	do.....	25	Florida and Alabama.
S. E. McConnell Sons Co.....	do.....	44	Alabama.
Olun Mills, Inc.....	Miscellaneous.....	35	Alabama, Florida, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.
United Shoe Stores Co.....	Shoes.....	44	Louisiana, Arkansas, Texas, Mississippi, Oklahoma, Tennessee, and others.
Hale Drug Co.....	Drugs.....	14	Alabama, Arkansas, Mississippi, North Carolina, and Tennessee.
Baxter Stores, Inc.....	Clothing and furnishings.....	25	New York, North Carolina, Pennsylvania, South Carolina, Tennessee, New Jersey, Alabama, and Florida.
Mothers Beautiful.....	do.....	5	Florida.
Bottom Dollar Co.....	do.....	8	Do.
Jaunty Dress Shops, Inc.....	do.....	12	New Jersey and Pennsylvania.
Saxon's Candy Kitchen, Inc.....	Candy stores.....	12	Alabama.
Kenwin Shops.....	Clothing and furnishings.....	18	Alabama, North Carolina, and South Carolina.
Schwoblt Clothes.....	do.....	29	Alabama, Florida, Louisiana, and Mississippi.
Hub Stores.....	do.....	15	Alabama.
Fremac's.....	do.....	23	Florida.
Economy Auto Stores, Inc.....	Auto supply.....	28	Alabama, Florida, and Tennessee.

HAWAII

Gem, Inc.....	Discount stores.....	7	Colorado, Kansas, Missouri, Minnesota, and Pennsylvania.
Long Stores.....	Drugstore.....	15	California.
Hartfield Stores, Inc.....	Clothing and furnishings.....	45	Arizona, California, New Jersey, New York, Oregon, and Washington.

IDAHO

Roe Bros. Stores, Inc.....	Shoe.....	46	Also operates in Arizona, California, Colorado, New Mexico, Nevada, Oregon, Texas, Washington, and Wyoming.
Rollnick Shoe Co.....	do.....	9	Also operates in Colorado, Utah, and Wyoming.
Anderson Lumber Co.....	Hardware.....	16	Also operates in Utah.
Home Lumber & Coal Co.....	do.....	9	Also operates in Oregon.
Madison Lumber & Mill Co.....	do.....	8	Also operates in Washington.
Mountain States Implement Co.....	do.....	9	Also operates in Utah.
Nettleton Shops, Inc.....	Shoes.....	45	Also operates in all States.
M. Alexander, Inc.....	Clothing and furnishings.....	8	Also operates in Oregon.
Signman Food Stores.....	Food.....	15	Also operates in Washington and Oregon.
Lowe Drug Co.....	Drugstore.....	5	Also operates in Utah.
Skaggs Drug Center, Inc.....	do.....	28	Also operates in Arizona, Colorado, Louisiana, Montana, Nevada, New Mexico, Oklahoma, Texas, and Utah.
Bennett's (pajuts).....	Miscellaneous.....	8	Also operates in California and Utah.
Pay Less Stores.....	Drugs.....	18	Also operates in California, Oregon, and Washington.
Sweetbriar Shops, Inc.....	Clothing and furnishings.....	48	Also operates in Arizona, Colorado, Montana, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming.
Conrad's Inc.....	do.....	11	Also operates in Colorado, Montana, Oregon, Utah, Washington, and Wyoming.
McMahan's Furniture Co.....	Furniture.....	37	Also operates in California and Nevada.
Weisfeld's Inc.....	Jewelry.....	32	Also operates in California, Oregon, and Washington.
M. H. King Co.....	Variety.....	20	Also operates in Montana, Oregon, and Utah.
Fonk's 5-Cent-\$1 Stores.....	do.....	13	Also operates in Washington and California.

ILLINOIS

Adeline Apparel Shops, Inc.....	Clothing and furnishings.....	49	Indiana, New York, North Carolina, Ohio, Tennessee, Pennsylvania, Virginia, New Jersey, and Arkansas.
Puritan Federal Clothing Stores, Inc.....	do.....	46	Connecticut, Indiana, Maine, Massachusetts, Michigan, New Hampshire, Ohio, Pennsylvania, and Vermont.
Gramont Co., Inc.....	do.....	9	California, Maryland, Michigan, Missouri, New Jersey, New York, and Pennsylvania.
My Shop, Inc.....	do.....	41	Alabama, Georgia, Indiana, Louisiana, Mississippi, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
Cranes-Mayos Clothes, Inc.....	do.....	40	Delaware, Georgia, Illinois, Indiana, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
The Custom Shops.....	do.....	26	California, District of Columbia, Maryland, Michigan, Minnesota, New Jersey, New York, Ohio, and Pennsylvania.
Ellay Stores, Inc.....	do.....	43	Indiana, North Carolina, Ohio, Pennsylvania, Texas, West Virginia, and New Jersey.
Millinery Stores.....	do.....	27	Connecticut, Washington, D.C., Indiana, Minnesota, Ohio, Tennessee, and Texas.
Jane Lee Stores, Inc.....	do.....	38	Connecticut, Indiana, Kansas, and Kentucky.
Brooks Bros. Clothing.....	do.....	7	California, Massachusetts, and New York.
Lady Oris Hosiery Shops.....	do.....	11	Kentucky, Louisiana, New York, Tennessee, and Texas.
Consolidated Retail Stores, Inc.....	do.....	29	Alabama, Arkansas, District of Columbia, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Irving O. Livingston, Inc.....	do.....	16	Delaware and Indiana.
Cardinal Neckwear, Inc.....	do.....	16	District of Columbia, Florida, Massachusetts, New Jersey, and New York.
Brooks Fashion Stores, Inc.....	do.....	18	New York, Ohio, and Wisconsin.
Broadstreet's, Inc.....	do.....	12	New Jersey, New York, Pennsylvania, and West Virginia.
Bonwit Teller.....	do.....	8	Florida, Massachusetts, New York, and Ohio.
Karuber Co., Inc.....	do.....	8	Indiana, Maine, Michigan, and Missouri.
Jubilee Shops, Inc.....	do.....	15	New York, Kansas, Maryland, New Jersey, Ohio, Pennsylvania, Texas, and Virginia.
Kamber Co., Inc.....	do.....	8	Illinois, Maine, Michigan, and Missouri.
Crown Self-Service Shoe Stores, Inc.....	Shoes.....	38	Indiana, Michigan, Ohio, and Wisconsin.
Frank's Shoes, Inc.....	do.....	9	Indiana.
George E. Keith Co.....	do.....	14	Arkansas, California, Colorado, Georgia, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
I. Miller Salons.....	do.....	14	District of Columbia, Florida, Maryland, New Jersey, New York, and Pennsylvania.
Kitty Kelly Shoe Corp.....	do.....	39	Florida, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, and Pennsylvania.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

ILLINOIS—Continued

Company	Category	Number of stores	Other States of operation
Lloyd & Haig Shoe Corp.	Shoes	7	New York and Pennsylvania.
Maling Shoes	do	31	Indiana, Michigan, Ohio, and Wisconsin.
Midland Shoe Co.	do	38	Alabama, Arkansas, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.
Modern Retail, Inc.	do	6	Kansas and Missouri.
Weiss & Neumann Shoe Co.	do	50	Arkansas, Indiana, Iowa, Kansas, Michigan, Minnesota, Texas, and Wisconsin.
Virginia Dare Stores, Corp.	Clothing and furnishings	46	Alabama, Florida, Georgia, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
George E. Keith Co.	Shoes	14	Arkansas, California, Colorado, Georgia, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
The Krohngold Shoe Co.	do	20	Michigan and Ohio.
J & J Slater	do	8	California, District of Columbia, New Jersey, and New York.
Nettleton Shops, Inc.	do	45	All States.
Leath & Co.	Furniture	37	Indiana, Iowa, Michigan, Minnesota, and Wisconsin.
L. Fish Furniture Co.	do	11	Indiana, Ohio, and Wisconsin.
Estee Sleep Shops	do	10	Wisconsin.
Rhodes-Burford, Inc.	do	12	Indiana, Missouri, and Kentucky.
City Furniture Co.	do	5	Indiana.
Biederman Furniture	do	11	Missouri.
E. P. Roe Stores	Clothing and furnishings	14	Indiana, Iowa, Michigan, Ohio, and Pennsylvania.
Val-U-Dress Shops, Inc.	do	42	Indiana, Michigan, and Ohio.
Gelfman's Food Stores, Inc.	Food supply	7	Iowa.
Joe Tittle & Sons, Inc.	do	6	Indiana.
Garden City Foods, Inc.	do	6	Do.
Benner Tea Co.	do	33	Iowa and Missouri.
Eagle Food Centers, Inc.	do	31	Iowa.
Buehler Markets	do	20	Georgia, Iowa, Massachusetts, Missouri, Nebraska, Pennsylvania, and Tennessee.
Niemann Brothers	do	6	Missouri.
Tri-City Grocery Co.	do	21	Do.
Ohio Markets	do	6	Do.
The Paxton Wholesale Grocery Co.	do	38	Indiana.
E. G. Shinner & Co., Inc.	do	47	Iowa, Michigan, Ohio, Wisconsin, and Pennsylvania.
Magikist Service Corp.	Dry cleaning	10	Arizona, California, Florida, Indiana, Massachusetts, Michigan, New York, Ohio, Pennsylvania, Texas, and Wisconsin.
Big 'B' One Hour Cleaners	do	15	Florida, Iowa, Kentucky, Missouri, Tennessee, and Virginia.
Rudolph Brothers, Inc.	Jewelry	48	Massachusetts, New Jersey, and New York.
Mages Sporting Goods Co.	Miscellaneous store	13	Indiana.
The Wurlitzer Co. (musical instruments)	do	6	Michigan, New York, Ohio, and Pennsylvania.
Factory Tile Warehouse, Inc.	do	15	Wisconsin.
Wood-Drive Co.	do	9	Michigan.
Forsyth Fabrics, Inc.	do	9	Iowa, Kentucky, Louisiana, Tennessee, Alabama, and Georgia.
Lyon & Healy, Inc. (musical merchandise)	do	11	California, Indiana, Ohio, and New York.
Coloramic Tile Co., Inc.	do	5	Indiana.
M. L. Hunter's 5 cents to \$1 Stores	Variety	6	Missouri.
Nunn-Bush Shoe Co.	Shoe store	23	Alabama, Arkansas, California, Connecticut, Colorado, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Haffner's 5-Cent to \$1 Stores, Inc.	Variety	40	Indiana, Michigan, and Ohio.
Spyrison's Shoes, Inc.	Shoes	8	Wisconsin.
Bowman Shoe Co.	do	16	Iowa.
Kostol Shoe Co.	do	20	Indiana.
Michaels & Mann, Inc.	Clothing and furnishings	10	Indiana, Kentucky, Michigan, and Ohio.
Foreman & Clark of Minnesota, Inc.	do	5	Iowa, Minnesota, and Nebraska.
Abrahams Bros.	do	12	Indiana, Iowa, and Ohio.
Tall Girl's Shops	do	6	Michigan, New York, and Ohio.
Dotty Shops, Inc.	do	6	Missouri, Kentucky, and Tennessee.
Leets, Inc.	do	5	Mississippi and Missouri.
Lishon Shops, Inc.	do	20	Iowa and Missouri.
Salle Ann Shops, Inc.	do	19	Missouri and Texas.
Markson Bros., Inc.	do	41	California, Arizona, Colorado, Kansas, Maine, Massachusetts, New York, Oklahoma, and Texas.
Stevens Candy Kitchens, Inc.	Candy stores	35	Indiana and Ohio.
Harvey Bros., Inc.	Clothing and furnishings	6	Indiana, Kansas, and Nebraska.
Equitable Millinery	do	25	Indiana, Iowa, Kentucky, Michigan, Ohio, and Wisconsin.
Tresslar's 5-10-Cent Stores	Variety	15	Indiana and Kentucky.
Index Notions Co.	do	17	Indiana.
Giant Stores	Discount stores	5	Indiana and New Mexico.
Consumers Mart of America, Inc.	do	5	California and Illinois.
Morris Paint Co.	Miscellaneous	10	Missouri, Iowa, and Nebraska.
Lewis Shoe Stores	Shoe store	14	Arizona, Florida, Kentucky, and Texas.
Doubleday Book Shops	Miscellaneous	32	Maryland, Massachusetts, and New York.
Remnant House (Fabrics)	do	14	Arkansas, Indiana, Kentucky, Missouri, and Tennessee.
Mary Lester of Southern Wisconsin	do	20	Wisconsin.
Schlegel Drug Store	Drugstore	18	Iowa.
May's Drug Stores, Inc.	do	14	Do.
Mattoon Thrifty Drug Co.	do	7	Kentucky.
Oscro Drug Co.	do	30	Indiana, Iowa, Minnesota, North Dakota, and Wisconsin.
O'Connor & Goldberg, Inc.	Shoes	20	Indiana.
The Scholl Manufacturing Co., Inc.	do	35	Florida.
Bramson, Inc.	Clothing and furnishings	10	Indiana and Wisconsin.
Benson & Rixon Co.	do	11	Indiana and Iowa.
Bell's Cotton Shops, Inc.	do	14	Indiana, Iowa, Oklahoma, and Texas.
Beenar's	do	19	Missouri.
H. Imher & Sons, Inc.	do	5	Iowa.
Ross Millinery Co., Inc.	do	8	Iowa.
Tire Mart Stores Corp.	Auto supply	27	California, New Jersey, New York, and Pennsylvania.
Major Auto Supply, Inc.	do	8	Missouri.
Kimmel Auto Supply	do	6	Kentucky.
Western Tire Auto Stores, Inc.	do	48	Indiana, Michigan, and Wisconsin.
Blue Star Auto Stores, Inc.	do	16	Indiana.
J & R Motor Supply Corp.	do	27	Iowa, Michigan, and Missouri.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

INDIANA

Company	Category	Number of stores	Other States of operation
Adeline Apparel Shops, Inc.	Clothing and furnishings	49	New York, North Carolina, Ohio, Tennessee, Pennsylvania, Virginia, New Jersey, Arkansas, and Illinois.
Puritan Federal Clothing Stores, Inc.	do	46	Connecticut, Illinois, Maine, Massachusetts, Michigan, New Hampshire, Ohio, Pennsylvania, and Vermont.
Retail Jenny Shops, Inc.	do	20	Ohio, Pennsylvania, and West Virginia.
My Shop, Inc.	do	41	Alabama, Georgia, Illinois, Louisiana, Mississippi, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
Cranes-Mayos Clothes, Inc.	do	40	Delaware, Georgia, Illinois, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
King Clothing Co., Inc.	do	18	Michigan, Ohio, and Texas.
Morrison Stores Corp.	do	12	Connecticut, Delaware, Michigan, and New York.
Ellay Stores, Inc.	do	43	Illinois, North Carolina, Ohio, Pennsylvania, Texas, West Virginia, and New Jersey.
Millinery Stores	do	27	Connecticut, Washington, District of Columbia, Illinois, Minnesota, Ohio, Tennessee, and Texas.
Jane Lee Stores, Inc.	do	38	Connecticut, Illinois, Kansas, and Kentucky.
Consolidated Retail Stores, Inc.	do	29	Alabama, Arkansas, District of Columbia, Illinois, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Irving O. Livingston Inc.	do	16	Illinois and Delaware.
Joy Stores, Inc.	do	18	Kentucky, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, and Wisconsin.
Lockett Shoe Co., Inc.	Shoes	7	Ohio and Kentucky.
American Shoe Co., Inc.	do	29	Kentucky, Missouri, North Dakota, and Tennessee.
Crown Self-Service Shoe Stores, Inc.	do	38	Illinois, Michigan, Ohio, and Wisconsin.
Frank's Shoes, Inc.	do	9	Illinois.
Geo. E. Keith Co.	do	14	Arkansas, California, Colorado, Georgia, Illinois, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
Midland Shoe Co.	do	38	Alabama, Arkansas, Iowa, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.
Maling Shoes	do	31	Illinois, Michigan, Ohio, and Wisconsin.
Weiss & Neumann Shoe Co.	do	50	Arkansas, Illinois, Iowa, Kansas, Michigan, Minnesota, Texas, and Wisconsin.
The Tash Shoe Co.	do	6	Ohio and New York.
Jack's Shoes, Inc.	do	11	Ohio.
Gilbert Shoe Co.	do	8	Do.
Epko Shoes, Inc.	do	26	Michigan, New York, and Ohio.
Nettleton Shops, Inc.	do	45	All States.
Holthouse Furniture, Inc.	Furniture	10	Ohio.
Banner-Whitehill Corp.	do	7	Do.
Leath & Co.	do	37	Illinois, Iowa, Michigan, Minnesota, and Wisconsin.
L. Fish Furniture Co.	do	11	Illinois, Ohio, and Wisconsin.
City Furniture Co.	do	5	Illinois.
Rhodes-Burford, Inc.	do	12	Illinois, Kentucky, and Missouri.
Wormser Hat Stores, Inc.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
E. P. Roe Stores	do	14	Illinois, Iowa, Michigan, Ohio, and Pennsylvania.
Weiss Bros. Stores, Inc.	do	19	Alabama, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.
Wilbur-Rogers, Inc.	do	38	Delaware, District of Columbia, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
Val-U-Dress Shops, Inc.	do	42	Michigan, Ohio, and Illinois.
Virginia Dare Stores, Inc.	do	46	Alabama, Florida, Georgia, Illinois, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Joe Tittle & Sons, Inc.	Food supply	6	Illinois.
Garden City Foods, Inc.	do	6	Do.
Stop & Shop Supermarkets, Inc.	do	21	Kentucky.
Hoosier Markets, Inc.	do	10	Ohio.
The Paxton Wholesale Grocery Co.	do	38	Illinois.
Magikist Service Corp.	Drycleaning	10	Arizona, California, Florida, Illinois, Massachusetts, Michigan, New York, Ohio, Pennsylvania, Texas, and Wisconsin.
Fame Laundries, Inc.	do	22	Kentucky, Ohio, and Pennsylvania.
The Barr Co.	Variety	5	Ohio.
Behr Stores	do	10	Kentucky.
The Model Laundry & Dry Cleaning Co.	Drycleaning	16	Ohio and Kentucky.
Will Sale's Jewelry Stores	Jewelry	5	Kentucky.
Scott's Stores	Variety	6	Ohio and Kentucky.
Hart Stores, Inc.	do	8	Do.
Mages Sporting Goods Co.	Miscellaneous stores	13	Illinois.
Will Sales Appliance Stores	do	6	Kentucky.
M. N. Landau Stores, Inc.	Variety	20	New York, Connecticut, Massachusetts, Michigan, New Hampshire, New Jersey, North Carolina, and Texas.
Lyon & Healy, Inc. (musical merchandise)	Miscellaneous stores	11	California, Illinois, Ohio, and New York.
Coloramic Tile Co., Inc.	do	5	Illinois.
Nunn-Bush Shoe Co.	Shoes	23	Alabama, Arkansas, California, Connecticut, Colorado, Florida, Georgia, Illinois, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Haffner's 5-Cent-\$1 Stores, Inc.	Variety	40	Illinois, Michigan, and Ohio.
Tresslar's 5¢-10¢ Stores	do	15	Illinois and Kentucky.
Belmont 5¢-\$1.00 Stores	do	6	Michigan and Ohio.
McCord 5¢-\$1.00 Stores	do	5	Ohio.
Index Notions Co.	do	17	Illinois.
W. R. Thomas 5¢-\$1.00 Stores, Inc.	do	9	Michigan and Ohio.
Paul's 5¢-\$1.00 Stores, Inc.	do	5	Ohio.
Equity Dairy Stores, Inc.	Food	9	Do.
Giant Stores	Discount stores	5	Illinois and New Mexico.
Miracle Marts	do	7	Michigan, Pennsylvania, Rhode Island, and Virginia.
The National Hotel Co.	Drugstores	14	Alabama, Louisiana, Nebraska, South Carolina, Texas, and Virginia.
Remnant House (fabrics)	Miscellaneous	14	Arkansas, Illinois, Kentucky, Missouri, and Tennessee.
Joe O. Frank Co.	do	16	Ohio.
The Muir Drug Co.	Drugstores	28	Michigan, Ohio, and Wisconsin.
Taylor Drug Stores	do	25	Kentucky.
Osco Drug Co.	do	30	Illinois, Iowa, Minnesota, North Dakota, and Wisconsin.
Hart Stores, Inc.	Drugs	8	Kentucky and Ohio.
O'Connor & Goldberg, Inc.	Shoes	20	Illinois.
Kostel Shoe Co.	do	20	Do.
Michaels & Mann, Inc.	Clothing and furnishings	10	Illinois, Kentucky, Michigan, and Ohio.
Homer Hayden's Inc.	do	14	Michigan.
Abrahams Bros.	do	12	Illinois, Iowa, and Ohio.
Webster Clothes, Inc.	do	19	District of Columbia, Kentucky, Maryland, New Jersey, North Carolina, Ohio, Virginia, and West Virginia.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

INDIANA—Continued

Company	Category	Number of stores	Other States of operation
Stevens Candy Kitchens, Inc.	Candy	35	Illinois and Ohio.
Harvey Bros. Inc.	Clothing and furnishings	6	Illinois, Kansas, and Nebraska.
The Abel Corp.	Auto supply	36	District of Columbia, Iowa, Maryland, Michigan, Ohio, Pennsylvania, Texas, and West Virginia.
Equitable Millinery	Clothing and furnishings	25	Illinois, Iowa, Kentucky, Michigan, Ohio, and Wisconsin.
Benson & Rixon Co.	do.	11	Illinois and Wisconsin.
Bell's Cotton Shops, Inc.	do.	14	Illinois and Iowa.
Beenar's	do.	19	Illinois, Iowa, Oklahoma, and Texas.
Southern Supply Co.	Auto supply	6	Kentucky.
Bill's Auto Stores, Inc.	do.	14	Do.
Western Tire Auto Stores, Inc.	do.	48	Illinois, Michigan, and Wisconsin.
Blue Star Auto Stores, Inc.	do.	16	Illinois.

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Linpark Clothing Corp.	Clothing and furnishings	12	Minnesota, Nebraska, New York, South Dakota, and Wisconsin.
M&M Martin Co., Inc.	do.	16	Georgia, Kansas, Minnesota, Montana, and North Carolina.
Geo. E. Keith Co.	Shoes	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
Hurrie Bros. Shoe Co.	do.	7	Minnesota and Wisconsin.
Midland Shoe Co.	do.	38	Alabama, Arkansas, Indiana, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.
Tradehome Shoe Stores, Inc.	do.	20	Minnesota, South Dakota, and Wisconsin.
Weiss & Neumann Shoe Co.	do.	50	Arkansas, Illinois, Indiana, Kansas, Michigan, Minnesota, Texas, and Wisconsin.
Geo. E. Keith Co.	do.	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
Nettleton Shops, Inc.	do.	45	All States.
Leath & Co.	Furniture	37	Illinois, Indiana, Michigan, Minnesota, and Wisconsin.
Wormser Hat Stores, Inc.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
E. P. Roe Stores.	do.	14	Illinois, Indiana, Michigan, Ohio, and Pennsylvania.
Gelfman's Food Stores, Inc.	Food supply	7	Illinois.
Rivin Bros. Stores.	do.	7	Minnesota and South Dakota.
Hyde & Vredenburg, Inc.	do.	38	Missouri.
Benner Tea Co.	do.	33	Illinois and Missouri.
Swanson's Supper Stores.	do.	8	Minnesota.
Eagle Food Centers, Inc.	do.	31	Illinois.
Buchler Markets.	do.	20	Illinois, Georgia, Massachusetts, Missouri, Nebraska, Pennsylvania, and Tennessee.
E. G. Shinner & Co., Inc.	do.	47	Illinois, Michigan, Ohio, Wisconsin, and Pennsylvania.
Big "B" One Hour Cleaners.	Drycleaning	15	Florida, Illinois, Kentucky, Missouri, Tennessee, and Virginia.
Helzberg's Diamond Shops, Inc.	Jewelry	15	Kansas and Missouri.
Newton Jewelry Co.	do.	8	Missouri, Arkansas, and Oklahoma.
C. J. Silver Jewelers, Inc.	do.	9	Minnesota and Wisconsin.
National 5¢-\$1.00 Stores.	Variety	12	Minnesota and South Dakota.
Acme-Harding Glass, Inc.	Miscellaneous	16	Colorado, Kansas, Missouri, and Nebraska.
Forsyth Fabrics, Inc.	do.	9	Alabama, Georgia, Illinois, Kentucky, Louisiana, and Tennessee.
P. M. Place Stores Co.	Variety	12	Missouri.
Randall Stores, Inc.	Food	8	South Dakota.
Sunshine Food Markets.	do.	11	Do.
Great Minneapolis Surplus Stores.	Discount	6	Minnesota and North Dakota.
Shaver's Food Stores.	Food	7	Nebraska.
Hinky-Dinky Stores.	do.	38	Do.
Calandra Camera Co., Inc.	Miscellaneous	9	Do.
Arenz Shoe Co.	Shoe	6	Minnesota and Wisconsin.
Morris Paint Co.	Miscellaneous	10	Missouri, Illinois, and Nebraska.
Katz Drug Co.	Drug	42	Kansas, Missouri, Oklahoma, and Tennessee.
Schlegel Drug Stores.	do.	18	Illinois.
May's Drug Stores, Inc.	do.	14	Do.
Oscro Drug Co.	do.	30	Illinois, Indiana, Minnesota, North Dakota, and Wisconsin.
Bowman Shoe Co.	Shoes	16	Illinois.
Brown's Shoe Fit Co.	do.	40	Colorado, Kansas, Missouri, Nebraska, and North Dakota.
Buttrely Stores, Inc.	Clothing and furnishings	23	Minnesota, North Dakota, South Dakota, and Wisconsin.
Foreman & Clark of Minnesota, Inc.	do.	5	Illinois, Minnesota, and Nebraska.
Schaffer's	do.	8	Colorado, Minnesota, Nebraska, and Texas.
Abrahams Bros.	do.	12	Illinois, Indiana, and Ohio.
Beard & Gahelman, Inc.	do.	36	Kansas, Missouri, Nebraska, Oklahoma, South Dakota, and Texas.
Lishon Shops, Inc.	do.	20	Illinois and Missouri.
The Abel Corp.	Auto supply	36	District of Columbia, Indiana, Maryland, Michigan, Ohio, Pennsylvania, Texas, and West Virginia.
Equitable Millinery	Clothing and furnishings	25	Illinois, Indiana, Kentucky, Michigan, Ohio, and Wisconsin.
Bell's Cotton Shops, Inc.	do.	14	Illinois and Indiana.
Beenar's	do.	19	Illinois, Indiana, Oklahoma, and Texas.
Ross Millinery Co., Inc.	do.	8	Illinois.
J & R Motor Supply Corp.	Auto supply	27	Illinois, Michigan, and Missouri.

KANSAS

Jubilee Shops, Inc.	Clothing and furnishings	15	New York, Indiana, Maryland, New Jersey, Ohio, Pennsylvania, Texas, and Virginia.
Consolidated Retail Stores, Inc.	do.	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Jane Lee Stores, Inc.	do.	38	Connecticut, Illinois, Indiana, and Kentucky.
Jarold Shops, Inc.	do.	19	Nebraska, Oklahoma, and South Dakota.
Lewis Apparel Stores, Inc.	do.	35	Connecticut, Massachusetts, Michigan, New York, North Carolina, Ohio, and Oklahoma.
M&W Martin Co., Inc.	do.	16	Georgia, Iowa, Minnesota, Montana, and North Carolina.
Caldwells' Shoes, Inc.	Shoes	7	Missouri and South Dakota.
Midwest Drive-In Shoe Store.	do.	8	Missouri.
Modern Retail, Inc.	do.	6	Illinois and Missouri.
Robinson Shoe Co.	do.	6	Missouri.
Steve's Shoes, Inc.	do.	7	Do.
Weiss & Neumann Shoe Co.	do.	50	Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Texas, and Wisconsin.
The Homes Lumber & Supply Co.	Hardware	17	Oklahoma.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

KANSAS—Continued

Company	Category	Number of stores	Other States of operation
Nettleton Shops, Inc.	Stores	45	All States.
Wormser Hat Stores, Inc.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Peyton-Marcus Co.	do	14	Louisiana, Oklahoma, and Texas.
Karbe's, Inc.	Food supply	12	Arkansas and Missouri.
Foodtown Supermarkets, Inc.	do	25	Missouri and Oklahoma.
Russell's 5¢-1¢ Stores	Variety	10	Missouri.
Helzberg's Diamond Shops, Inc.	Jewelry	15	Iowa and Missouri.
Nunn-Bush Shoe Co.	Shoe	23	Alabama, Arkansas, California, Connecticut, Colorado, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Caldwell's Inc.	Miscellaneous stores	7	Colorado and Nebraska.
Acme-Harding Glass, Inc.	do	16	Colorado, Iowa, Missouri, and Nebraska.
Wolfe's Camera Shops, Inc.	do	5	Missouri.
Gateway Sporting Goods Co.	do	7	Do.
Gem, Inc.	Discount	7	Colorado, Hawaii, Missouri, Minnesota, and Pennsylvania.
Milgram Food Stores, Inc.	Food	20	Missouri.
The Matlock Stores	Variety	6	California, Colorado, and Oklahoma.
Longwear Paint & Varnish Works	Miscellaneous stores	7	Missouri, Oklahoma, and Texas.
Harper Rug Corp.	do	6	Missouri.
Great Western Paint Co.	do	6	Do.
Parkview Drugs of Kansas City, Inc.	Drug	29	Do.
Katz Drug Co.	do	42	Iowa, Missouri, Oklahoma, and Tennessee.
Crown Drug Co.	do	44	Missouri and Oklahoma.
Brown's Shoe Fit Co.	Shoes	40	Colorado, Iowa, Missouri, Nebraska, and North Dakota.
Harrison Shoes, Inc.	do	10	Oklahoma.
Volume Shoe Distributors	do	8	Oklahoma and Texas.
Hobart Shoe Co.	do	9	Oklahoma.
Sweetbriar Shops, Inc.	Clothing and furnishings	48	Arizona, Colorado, Idaho, Montana, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming.
Beard & Gabelman, Inc.	do	36	Iowa, Missouri, Nebraska, Oklahoma, South Dakota, and Texas.
Markson Bros., Inc.	do	41	California, Arizona, Colorado, Illinois, Kansas, Maine, Massachusetts, New York, Oklahoma, and Texas.
Harvey Bros., Inc.	do	6	Illinois, Indiana, and Nebraska.
Miami Sales Co.	Auto supply	11	Missouri and Oklahoma.
Midwest Auto Stores, Inc.	do	12	Missouri.
Marshall's Auto Stores	do	13	Do.

KENTUCKY

Michaels & Mann, Inc.	Clothing and furnishings	16	Illinois, Indiana, Michigan, and Ohio.
Beverly Shops	do	7	Ohio and West Virginia.
Tanne-Arden, Inc.	Clothing	36	Arizona, California, Colorado, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Texas, Utah, Washington, and New York.
Collins Stores, Inc.	Clothing and furnishings	24	Ohio, Pennsylvania, Tennessee, and West Virginia.
Joy Stores, Inc.	do	18	Indiana, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, and Wisconsin.
Consolidated Retail Stores, Inc.	do	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Jane Lee Stores, Inc.	do	38	Connecticut, Illinois, Indiana, and Kansas.
Krasner Bros., Inc.	do	26	Maryland, Missouri, Tennessee, and West Virginia.
Lady Oris Hosiery Shops	do	11	Illinois, Louisiana, New York, Tennessee, and Texas.
American Shoe Co., Inc.	Shoes	29	Indiana, Missouri, North Dakota, and Tennessee.
Felsway Shoe Corp.	do	37	Delaware, District of Columbia, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and South Carolina.
Kitty Kelly Shoe Corp.	do	39	Florida, Illinois, Maryland, Michigan, New Jersey, New York, Ohio, and Pennsylvania.
Lockett Shoe Co., Inc.	do	7	Indiana and Ohio.
Carolina Lumber Co.	Hardware	6	Ohio and West Virginia.
The Art Dry Cleaning Co.	Drycleaning	10	Ohio.
The Model Laundry & Dry Cleaning Co.	do	16	Ohio and Indiana.
Taggart Shoes, Inc.	Shoes	10	Ohio and West Virginia.
Nettleton Shops, Inc.	do	45	All States.
Wormser Hat Stores, Inc.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Nadler's, Inc.	do	5	Ohio.
Willbur-Rogers, Inc.	do	38	Delaware, District of Columbia, Indiana, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
Rhodes-Burford, Inc.	Furniture	12	Illinois, Indiana, and Missouri.
Sterchl Bros. Stores, Inc.	do	44	Tennessee, Alabama, Florida, Georgia, North Carolina, and South Carolina.
Scott's Stores	Variety	6	Ohio and Indiana.
Hart Stores, Inc.	do	8	Do.
Will Sales Appliance Stores	Miscellaneous stores	6	Indiana.
Harmeyer's Paint & Wallpaper	do	11	Ohio.
Forsyth Fabrics, Inc.	Miscellaneous	9	Alabama, Georgia, Illinois, Iowa, Louisiana, and Tennessee.
Tresslar's 5-10-Cent-Stores	Variety	15	Indiana and Illinois.
U-Tote-Em Grocery Co.	Food	11	Tennessee.
W. L. Bentley's 5-Cent-1¢ Stores	Variety	10	Tennessee and Alabama.
Kuhn Bros. Co.	do	43	Alabama, Tennessee, and Mississippi.
Barlo Co., Inc.	Discount stores	6	Ohio.
Arlan's Department Stores, Inc.	do	11	Connecticut, Massachusetts, Michigan, New York, and Ohio.
Bower's Stores	do	12	Georgia, North Carolina, and Tennessee.
Lewis Shoe Stores	Shoestore	14	Arizona, Florida, Illinois, and Texas.
Remnant House (fabrics)	Miscellaneous	14	Arkansas, Illinois, Indiana, Missouri, and Tennessee.
Olan Mills, Inc.	do	35	Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.
Pete Moore Appliance Center	do	10	Washington, D.C., Pennsylvania, Tennessee, and Virginia.
Miller Bros. Wallpaper Co.	do	6	Ohio.
Taylor Drug Stores	Drugstore	25	Indiana.
Mattson Thrifty Drug Co.	do	7	Illinois.
Hart Stores, Inc.	Drugs	8	Indiana and Ohio.
Dotty Shops, Inc.	Clothing and furnishings	6	Missouri, Illinois, and Tennessee.
Webster Clothes, Inc.	do	19	District of Columbia, Indiana, Maryland, New Jersey, North Carolina, Ohio, Virginia, and West Virginia.
Leo's, Inc.	Auto supply	18	Ohio.
Equitable Millinery	Clothing and furnishings	25	Illinois, Indiana, Iowa, Michigan, Ohio, and Wisconsin.
Checker Stores	Auto supply	15	Ohio.
Southern Supply Co.	do	6	Indiana.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

KENTUCKY—Continued

Company	Category	Number of stores	Other States of operation
B.G. Wholesale, Inc.	Food supply	23	Tennessee.
Stop & Shop Supermarkets, Inc.	do	21	Indiana.
Fame Laundries, Inc.	Drycleaning	22	Indiana, Ohio, and Pennsylvania.
Big "B" One Hour Cleaners	do	15	Florida, Illinois, Iowa, Missouri, Tennessee, and Virginia.
R. H. Hobbs Co. 5-cent-\$1 Stores	Variety	7	West Virginia.
Charles Stores Co., Inc.	do	32	New York, North Carolina, Pennsylvania, Tennessee, and Virginia.
W. R. Whitford's 5 cent-\$1 Stores	do	6	Alabama.
Behr Stores	do	10	Indiana.
Perl & Lowenstein	Jewelry	7	Arkansas and Tennessee.
Will Sale's Jewelry Stores	do	5	Indiana.
Nunn-Bush Shoe Co.	Shoestore	23	Alabama, Arkansas, California, Connecticut, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, West Virginia, Wisconsin, and Virginia.
Bill's Auto Stores, Inc.	Auto supply	14	Indiana.
Kimmel Auto Supply	do	6	Illinois.

LOUISIANA

My Shop, Inc.	Clothing and furnishings	41	Alabama, Georgia, Illinois, Indiana, Mississippi, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
Sumner Stores Corp.	Clothing	33	Alabama, Arizona, Florida, Georgia, Mississippi, South Carolina, Texas, Tennessee, Virginia, and New York.
O.P.O. Clothes	Clothing and furnishings	34	Alabama, Arizona, California, Florida, Georgia, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Smart and Thrifty Dresses, Inc.	Clothing	33	Alabama, Florida, South Carolina, Texas, and Virginia.
Lady Oris Hosiery Shops	Clothing and furnishings	11	Illinois, Kentucky, New York, Tennessee, and Texas.
Geo. E. Keith Co.	Shoes	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
Midland Shoe Co.	do	38	Alabama, Arkansas, Indiana, Iowa, Michigan, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.
Morton's Shoe Stores, Inc.	do	15	Connecticut, Delaware, Georgia, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Peyton-Marcus Co.	Clothing and furnishings	14	Kansas, Oklahoma, and Texas.
Woodrow Stores, Inc.	do	15	Alabama, Arizona, Florida, North Dakota, and New York.
Weiss Bros. Stores, Inc.	do	19	Alabama, Georgia, Indiana, Mississippi, Oklahoma, Tennessee, and Texas.
Big 10 Tire Co., Inc.	Miscellaneous	5	Mississippi.
National Manufacture & Stores Corp.	Furniture	40	Alabama, Georgia, North Carolina, South Carolina, Tennessee, and Texas.
Wormser Hat Stores, Inc.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Haverty Furniture Co.	Furniture	28	Alabama, Arkansas, Florida, Georgia, North Carolina, South Carolina, Tennessee, Texas, and Virginia.
Hemenway Furniture Co., Inc.	do	10	Texas.
Austin Shoe Stores	Shoes	33	Do.
Nettleton Shops, Inc.	do	45	All States.
Geo. E. Keith Co.	do	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
Pak-A-Sak Service, Inc.	Food Supply	48	Alabama.
Pik-Quick Food Stores	do	5	Mississippi.
Handelman's	Variety	14	Do.
Ellis Stores, Inc.	do	7	Arkansas.
P. W. West's Stores	do	5	Texas.
Forsyth Fabrics, Inc.	Miscellaneous	9	Alabama, Georgia, Illinois, Iowa, Kentucky, and Tennessee.
Jean Heart Shops	Clothing and furnishings	9	Texas.
Palais Royal, Inc.	do	10	Arkansas and Texas.
W. E. Walker Stores, Inc.	Variety	31	Mississippi.
Morton's Shoe Stores, Inc.	Shoes	15	Massachusetts, Connecticut, Georgia, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Nunn-Bush Shoe Co.	do	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
The National Hotel Co.	Drug	14	Alabama, Indiana, Nebraska, South Carolina, Texas, and Virginia.
Skaggs Drug Center, Inc.	do	28	Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oklahoma, Texas, and Utah.
Brookshire's Food Stores	Food	17	Texas.
Kuhn Paint Co.	Miscellaneous	14	Do.
Bay Shoe Co., Inc.	Shoes	7	Do.
Rosenblum Shoes, Inc.	do	16	Alabama.
Newstadt's Shoe Stores	do	8	Texas.
United Shoe Stores Co.	do	44	Arkansas, Georgia, Texas, Mississippi, Oklahoma, Tennessee, and others.
R. C. Brown Stores	Clothing and furnishings	5	Alabama and Mississippi.
Gibson Clothing Stores	do	6	Arkansas.
Schwobilt Clothes	do	29	Alabama, Florida, Georgia, and Mississippi.
Auto-Lee Stores, Inc.	Auto supply	50	Alabama, Mississippi, Florida, and Tennessee.
Jack Mashburn, Inc.	do	5	Mississippi.

MAINE

Puritan Federal Clothing Stores, Inc.	Clothing and furnishings	46	Connecticut, Illinois, Indiana, Massachusetts, Michigan, New Hampshire, Ohio, Pennsylvania, and Vermont.
Kamber Co., Inc.	do	8	Illinois, Indiana, Michigan, and Missouri.
I. H. Morse Shoe Stores, Inc.	Shoes	8	Massachusetts and New Hampshire.
Diamond National Corp.	Hardware	26	Connecticut, Massachusetts, New Hampshire, Rhode Island, and Vermont.
L. Grossman Sons, Inc.	do	25	Massachusetts, New Hampshire, and Rhode Island.
Middlesex Supply Co.	do	30	Massachusetts and New Hampshire.
Sampson's Supermarkets	Food supply	20	Massachusetts.
Elm Farm Food Company	do	40	Massachusetts and New Hampshire.
Brockton Public Markets, Inc.	do	10	Massachusetts.
Nettleton Shops, Inc.	Shoes	45	All States.
I. H. Morse Shoe Stores, Inc.	do	8	Massachusetts and New Hampshire.
Allied Shoe Co.	do	33	Massachusetts, Connecticut, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, and Rhode Island.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

MAINE—Continued

Company	Category	Number of stores	Other States of operation
United Stores Co.	Variety	9	Massachusetts.
M. H. Fishman Co., Inc.	do	47	New York, Delaware, Massachusetts, New Hampshire, New Jersey, Ohio, Pennsylvania, Vermont, and Virginia.
Nunn-Bush Shoe Co.	Shoes	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Jay's Stores, Inc.	Discount	7	Massachusetts.
Zayre Corp.	do	14	Massachusetts, Pennsylvania, and Tennessee.
Wig Warm Moccasins, Inc.	Shoes	15	Massachusetts and New Hampshire.
Young America & Junior Gent	Clothing and furnishings	6	Florida.
Outlet Millinery Co., Inc.	do	5	Connecticut and Massachusetts.
Keuncdy's, Inc.	do	16	Connecticut, Massachusetts, New Hampshire, and Rhode Island.
Prudene Clothes, Inc.	do	8	Connecticut, Massachusetts, and New Hampshire.
La Mode Corset Shops	do	6	Massachusetts and New Hampshire.
Markson Bros., Inc.	do	41	California, Arizona, Colorado, Illinois, Kansas, Massachusetts, New York, Oklahoma, and Texas.
Murray Kaufman Co., Inc.	Auto supply	12	Massachusetts and New Hampshire.
Myral's, Inc.	do	8	New Hampshire.

MARYLAND

Gramont Co., Inc.	Clothing and furnishings	9	California, Illinois, Michigan, Missouri, New Jersey, New York, and Pennsylvania.
My Shop, Inc.	do	41	Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
Tall Apparel Shops	Clothing	7	District of Columbia, Massachusetts, Michigan, Minnesota, New York, and Pennsylvania.
The Custom Shops	Clothing and furnishings	26	California, District of Columbia, Illinois, Michigan, Minnesota, New Jersey, New York, Ohio, and Pennsylvania.
O. P. O. Clothes	do	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Consolidated Retail Stores, Inc.	do	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Krasner Bros., Inc.	do	26	Kentucky, Missouri, Tennessee, and West Virginia.
Morton's	do	5	District of Columbia and Virginia.
Hofstadter & Albert Millinery Corp.	do	7	District of Columbia, Ohio, Pennsylvania, and Virginia.
Jubilee Shops, Inc.	do	15	New York, Indiana, Kansas, New Jersey, Ohio, Pennsylvania, Texas, and Virginia.
The Ormond Shops, Inc.	do	34	New Jersey, Pennsylvania, and West Virginia.
Felsway Shoe Corp.	Shoes	37	Delaware, District of Columbia, Kentucky, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and South Carolina.
I. Miller Salons	do	14	District of Columbia, Florida, Illinois, New Jersey, New York, and Pennsylvania.
Kitty Kelly Shoe Corp.	do	39	Florida, Illinois, Kentucky, Michigan, New Jersey, New York, Ohio, and Pennsylvania.
Felser Shoe Stores	do	13	District of Columbia and Virginia.
People's Hardware Stores	Hardware	19	Do.
Worsmer Hat Stores, Inc.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Wilbur-Rogers, Inc.	do	38	Delaware, District of Columbia, Indiana, Kentucky, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
Greenbelt Consumer Services, Inc.	Food supply	10	Virginia.
Blue Ribbon Laundry	Dry cleaning	28	District of Columbia and Virginia.
Thrift Shoe Stores, Inc.	Shoes	24	New York and Pennsylvania.
Glick Bros., Inc.	do	12	Pennsylvania.
Haines Shoe Co., Inc.	do	24	Do.
Siehl Furniture Co., Inc.	Furniture	7	Virginia and West Virginia.
Nettleton Shops, Inc.	Shoes	45	All States.
Nathan & Sylvia Robin, Inc.	Dry Cleaning	14	District of Columbia and Virginia.
Elite Laundry & Cleaning Co.	do	10	District of Columbia and Virginia.
Allied Shoe Co.	Shoes	33	Massachusetts, Connecticut, Maine, New Hampshire, New Jersey, New York, Pennsylvania, and Rhode Island.
Super Shoe Stores	do	14	Pennsylvania and West Virginia.
Sunny Snrplus Agency	Miscellaneous stores	14	Pennsylvania.
Market Tire Co.	do	8	District of Columbia and Virginia.
Home, Inc. (paints, glass, and tile)	do	10	Do.
Ritz Camera Centers	do	7	District of Columbia, Pennsylvania, and New York.
Rogers Toy Shops, Inc.	do	18	District of Columbia, Tennessee, Ohio, Florida, Alabama, Georgia, Pennsylvania, and Virginia.
Stidham Tire Stores	do	7	District of Columbia and Virginia.
Charles G. Stott Co., Inc.	do	6	Do.
W. R. Winslow Co. (paints)	do	8	Do.
Bloch Daneman Co.	Furniture	10	Wisconsin, Michigan, Ohio, and Pennsylvania.
Waltersdorf Furniture Co., Inc.	do	12	Pennsylvania.
S. A. Meyer Co.	Jewelry	15	Pennsylvania, New York, Ohio, and West Virginia.
Jay Roy Co., Inc.	do	25	Pennsylvania and West Virginia.
Polan's 5-Cent-\$1 Stores	Variety	13	Delaware, District of Columbia, Florida, and Pennsylvania.
Lana Lobell, Inc.	Clothing and furnishings	8	Pennsylvania.
Castro Convertible Corp.	Furniture	47	Connecticut, Florida, Michigan, New Jersey, New York, Pennsylvania, District of Columbia, and Rhode Island.
Nunn-Bush Shoe Co.	Shoes	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
H. S. King Co.	Variety	5	Virginia and District of Columbia.
National 5 & 10-Cent Stores, Inc.	do	7	Delaware and New Jersey.
Dalmo Sales Co.	Discount stores	5	Washington and Virginia.
Two Guys from Harrison	do	17	New Jersey, New York, and Pennsylvania.
Tower Marts, Inc.	do	12	Connecticut, Washington, D.C., Massachusetts, New Jersey, and Pennsylvania.
S. N. McBride Co., Inc.	Variety	6	Washington, D.C.
Huntsberrys, Inc.	Shoe store	5	Virginia and Pennsylvania.
Critzer Footwear, Inc.	do	14	Virginia.
Doubleday Book Shops	Miscellaneous	32	Illinois, Massachusetts, and New York.
Brentano's, Inc.	do	13	Washington, D.C., New Jersey, Virginia, and New York.
Metro Drug Stores	Drugstore	10	Virginia and District of Columbia.
Dart Drug Corp.	do	13	District of Columbia, and Virginia.
Silco Cut Price Stores, Inc.	Drugs	50	Delaware, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia.
Jelleff's, Inc.	Clothing and furnishings	6	District of Columbia, and Virginia.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

MARYLAND—Continued

Company	Category	Number of stores	Other States of operation
Blechman's Kopy Kat, Inc.	Clothing and furnishings	5	Washington, D.C.
Beyda's	do	5	Do.
Jack Stevens Clothes	do	7	Massachusetts, Michigan, Minnesota, and Ohio.
Sa-Lee Shops, Inc.	do	5	New Jersey, and Pennsylvania.
Terry Shops	do	24	New Jersey, Delaware, New York, and Virginia.
Webster Clothes, Inc.	do	19	District of Columbia, Indiana, Kentucky, New Jersey, North Carolina, Ohio, Virginia, and West Virginia.
Casual Corner, Inc.	do	6	Washington, D.C.
Hollander's Home & Auto Supplies, Inc.	Auto Supply	9	Pennsylvania.
Miller's Auto, Supplies, Inc.	do	15	Pennsylvania and West Virginia.
Joe, The Motorists' Friend, Inc.	do	25	Pennsylvania, Virginia, and West Virginia.
The Abel Corp.	do	36	District of Columbia, Iowa, Indiana, Michigan, Ohio, Pennsylvania, Texas, and West Virginia.
Market Tire, Inc.	do	8	District of Columbia and Virginia.
Lou's Auto Stores	do	5	West Virginia.
Taubman's, Inc.	do	13	Virginia.

MASSACHUSETTS

Puritan Federal Clothing Stores, Inc.	Clothing and furnishings	46	Connecticut, Illinois, Indiana, Maine, Michigan, New Hampshire, Ohio, Pennsylvania, and Vermont.
Good-Val Stores Corp.	do	26	Florida, Georgia, New Hampshire, New York, North Carolina, Pennsylvania, South Carolina, and Virginia.
Label Youth Centers	do	40	New Jersey, New York, and Pennsylvania.
Tanne-Arden, Inc.	Clothing	36	Arizona, California, Colorado, Kentucky, Oklahoma, Michigan, Nevada, Oregon, Texas, Utah, Washington, and New York.
Tall Apparel Shops	do	7	District of Columbia, Maryland, Michigan, Minnesota, New York, and Pennsylvania.
Roger Kent, Inc.	do	13	Connecticut, New York, and Pennsylvania.
Ripley Clothes	do	41	Connecticut, District of Columbia, Missouri, New Jersey, New York, Rhode Island, and Pennsylvania.
Roaman's Women's Fashions Shops, Inc.	do	6	New York.
Lorrains Smart Shops, Inc.	Clothing and furnishings	16	New York, New Jersey, and Pennsylvania.
Lewis Apparel Stores, Inc.	do	35	Connecticut, Kansas, Michigan, New York, North Carolina, Ohio, and Oklahoma.
Cardinal Neckwear, Inc.	do	16	District of Columbia, Florida, Illinois, New Jersey, and New York.
Miss New York Frocks, Inc.	do	5	New York and Vermont.
P & O Shops, Inc.	do	9	Connecticut, New Hampshire, and Rhode Island.
Brooks Brothers Clothing	do	7	California, Illinois, and New York.
Bonwit Teller	do	8	Florida, Illinois, New York, and Ohio.
Best & Co., Inc.	do	19	Connecticut, District of Columbia, Ohio, Michigan, New Jersey, New York, Pennsylvania, and Virginia.
French, Shriner & Urner	Shoes	17	California, Minnesota, New York, Ohio, and Pennsylvania.
Geo. E. Keith Co.	do	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
I. H. Morse Shoe Stores, Inc.	do	8	Maine, and New Hampshire.
J. Baker, Inc.	do	14	Connecticut and Vermont.
Morse Shoe Store Corp.	do	38	New Hampshire and New York.
Morton's Shoe Stores, Inc.	do	15	Connecticut, Delaware, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont and Virginia.
Tanen Shoe Co.	do	6	Connecticut and New York.
Tredwell Shoe Corp.	do	26	Connecticut and New Hampshire.
Carlisle Hardware Co.	Hardware	12	Connecticut.
Diamond National Corp.	do	26	Connecticut, Maine, New Hampshire, Rhode Island, and Vermont.
L. Grossman Sons, Inc.	do	25	Maine, New Hampshire, and Rhode Island.
Middlesex Supply Co.	do	30	Maine and New Hampshire.
Wilbur-Rogers, Inc.	Clothing and furnishings	38	Delaware, District of Columbia, Indiana, Kentucky, Maryland, Missouri, New Jersey, New York, North Carolina, Ohio, Virginia, and Pennsylvania.
Virginia Dare Stores, Corp.	do	46	Alabama, Florida, Georgia, Illinois, Indiana, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Unger's Hosiery & Frocks, Inc.	do	11	New York and Connecticut.
Wormser Hat Stores, Inc.	do	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Elm Farm Food Co.	Food supply	40	Maine and New Hampshire.
Food Marts, Inc.	do	6	Connecticut.
Brockton Public Markets Inc.	do	10	Maine.
S. S. Pierce Co.	do	9	Connecticut.
Sampson's Supermarkets	do	20	Maine.
Buehler Markets	do	20	Illinois, Georgia, Iowa, Missouri, Nebraska, Pennsylvania and Tennessee.
J. Baker, Inc.	Shoes	14	Connecticut and Vermont.
Kay's-Newport, Inc.	do	21	Connecticut, New York, and Rhode Island.
Save-More Furniture Stores, Inc.	Furniture	6	New Hampshire.
Nettleton Shops, Inc.	Shoes	45	All States.
Bush & Co., Inc.	Drycleaning	22	Rhode Island.
Royce Superior Laundry, Inc.	do	15	Connecticut.
Laundercenter, Corp.	do	13	Connecticut, New Jersey, and New York.
National Cleaning Enterprises, Inc.	do	33	Pennsylvania, New Jersey, and Rhode Island.
Tredwell Shoe Corp.	Shoes	26	Connecticut and New Hampshire.
Sparkle Cleaners, Inc.	Drycleaning	35	Connecticut.
Geo. E. Keith Co.	Shoes	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
I. H. Morse Shoe Stores, Inc.	do	8	Maine and New Hampshire.
Tanen Shoe Co.	do	6	Connecticut and New York.
Magikist Service Corp.	Drycleaning	10	Arizona, California, Florida, Illinois, Indiana, Michigan, New York, Ohio, Pennsylvania, Texas, and Wisconsin.
Allied Shoe Co.	Shoes	33	Connecticut, Maine, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, and Rhode Island.
French, Shriner & Urner	do	17	California, Minnesota, New York, Ohio, and Pennsylvania.
Morse Shoe Store Corp.	do	38	New Hampshire and New York.
Morton's Shoe Stores, Inc.	do	15	Connecticut, Delaware, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Union-Fern, Inc.	Furniture	12	New York and Vermont.
M. N. Landau Stores, Inc.	Variety	20	New York, Connecticut, Indiana, Michigan, New Hampshire, New Jersey, North Carolina, and Texas.
Scott Jewelry Co.	Jewelry	11	New Hampshire.
Rudolph Bros., Inc.	do	48	Illinois, New Jersey, and New York.
United Stores Co.	Variety	9	Maine.
Godin Stores	do	12	New Hampshire.
Max Dichter, Inc.	do	5	New Hampshire and Vermont.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

MASSACHUSETTS—Continued

Company	Category	Number of stores	Other States of operation
J. A. Tepper Co.	Variety	5	Connecticut.
M. H. Fishman Co., Inc.	do	47	New York, Delaware, Maine, New Hampshire, New Jersey, Ohio, Pennsylvania, Vermont, and Virginia.
Almae's, Inc.	Food	21	Rhode Island.
Central Markets, Inc.	do	20	New York.
Great Scott Food Markets, Inc.	do		Rhode Island.
Cumberland Farms	do	17	Do.
Cherry & Webb Co.	Clothing and furniture	6	Do.
Nunn-Bush Shoe Co.	Shoes	23	Alabama, Arkansas, Montana, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Missouri, Michigan, Minnesota, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Jay's Stores, Inc.	Discount stores	7	Maine.
Max Dichter, Inc.	do	5	New Jersey, New York, Ohio, and Vermont.
Zayre Corp.	do	14	Maine, Pennsylvania, and Tennessee.
Arlan's Department Stores, Inc.	do	11	Connecticut, Kentucky, Michigan, New York, and Ohio.
Tower Marts, Inc.	do	12	District of Columbia, Maryland, New Jersey, and Pennsylvania.
Popular Markets, Inc.	Food	13	Connecticut.
Growers Outlet, Inc.	do	13	Do.
Star Market Co.	do	19	Rhode Island.
Market Basket Stores, Inc.	do	12	Connecticut.
New England Stores	Variety	7	Do.
Atlas Paint & Supply Co.	Miscellaneous	27	New Hampshire.
Fryer's Cigar Co.	do	9	Rhode Island.
Doughleday Book Shops	do	32	New York, Illinois, and Maryland.
Wadsworth, Howland & Co.	do	9	Connecticut.
Maek Drug Co.	Drugstore	15	New Jersey and New York.
Wig Warm Moccasins, Inc.	Shoes	15	Maine and New Hampshire.
Adams Management Corp.	Clothing and furnishings	12	Minnesota, New Jersey, New York, Pennsylvania, Rhode Island, and Texas.
The Andover Shops	do	6	Florida.
Outlet Millinery Co., Inc.	do	5	Connecticut and Maine.
Jack Stevens Clothes	do	7	Maryland, Michigan, Minnesota, and Ohio.
Kennedy's, Inc.	do	16	Connecticut, Maine, New Hampshire, and Rhode Island.
Lee Shops	do	8	Connecticut.
Prudence Clothes, Inc.	do	8	Connecticut, Maine, and New Hampshire.
Stork Time, Inc.	do	7	Connecticut and Rhode Island.
Berkeley Stores, Inc.	do	8	New Hampshire.
Beverly's, Inc., Shoppers World	do	5	Connecticut.
LaMode Corset Shops	do	6	Maine and New Hampshire.
The Primrose Shops	do	6	Rhode Island.
Van's Hosiery Stores, Inc.	do	23	Ohio and Pennsylvania.
Markson Bros., Inc.	do	41	California, Arizona, Colorado, Illinois, Kansas, Maine, New York, Oklahoma, and Texas.
Benny's, Inc.	Auto supply	21	Connecticut and Rhode Island.
Thorpe Automotive Co.	do	6	Rhode Island.
Kaufman & Chernick, Inc.	do	23	Do.
Eastern Auto Parts Co.	do	10	New Hampshire.
Murray Kaufman Co., Inc.	do	12	Maine and New Hampshire.

MICHIGAN

Cort Shoes, Inc.	Shoes	32	Ohio.
The Krohngold Shoe Co.	do	20	Illinois and Ohio.
Magikist Service Corp.	Dry cleaning	10	Arizona, California, Florida, Illinois, Indiana, Massachusetts, New York, Ohio, Pennsylvania, Texas, and Wisconsin.
The Wurlitzer Co.	Miscellaneous stores	6	Illinois, New York, Ohio, and Pennsylvania.
Wood-Drive Co.	do	9	Illinois.
Morton's Shoe Stores, Inc.	Shoes	15	Massachusetts, Connecticut, Georgia, Louisiana, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
M. N. Landau Stores	Variety	20	New York, Connecticut, Indiana, Massachusetts, New Hampshire, New Jersey, North Carolina, and Texas.
Castro Convertible Corp.	Furniture	47	Connecticut, Florida, Maryland, New Jersey, New York, Pennsylvania, District of Columbia, and Rhode Island.
Page, Co., Inc.	Clothing and furnishings	9	California, Ohio, and Texas.
Bloch Daneman Co.	Furniture	10	Wisconsin, Maryland, Ohio, and Pennsylvania.
W. R. Thomas 5¢-\$1.00 Stores, Inc.	Variety	9	Indiana and Ohio.
Belmont 5¢-\$1.00 Stores	do	6	Do.
Haffner's 5¢-\$1.00 Stores, Inc.	do	40	Indiana, Illinois, and Ohio.
Nunn-Bush Shoe Co.	Shoestore	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
The Good Housekeeping Shops	Miscellaneous	20	Canada.
Mathisen Tire Co.	do	7	Minnesota, North Dakota, and Wisconsin.
Arlan's Department Stores, Inc.	Discount stores	11	Connecticut, Kentucky, Massachusetts, New York, and Ohio.
Miracle Marts	do	7	Indiana, Pennsylvania, Rhode Island, and Virginia.
Aeme Quality Paint Co.	Miscellaneous	5	Alabama.
Peck Drugs Stores, Inc.	Drugstore	18	Ohio.
The Muir Drug Co.	do	28	Indiana, Ohio, and Wisconsin.
Jack Stevens Clothes	Clothing and furnishings	7	Maryland, Massachusetts, Minnesota, and Ohio.
Kilgore & Hurd, Inc.	do	5	Florida.
Tall Girl's Shops	do	6	Illinois, New York, and Ohio.
United Shirt Distributors, Inc.	do	39	Florida, New York, and Ohio.
Winkelman Bros., Inc.	do	42	Ohio.
The Fintex Corp.	do	20	Pennsylvania.
House of Nine, Inc.	do	34	California, Arizona, Texas, Colorado, Utah, Missouri, Oregon, and Pennsylvania.
H. & W. Auto Accessories Co.	Auto supply	11	Ohio.
The Ahel Corp.	do	36	District of Columbia, Iowa, Indiana, Maryland, Ohio, Pennsylvania, Texas, and West Virginia.
Equitable Millinery	Clothing and furnishings	25	Illinois, Indiana, Iowa, Kentucky, Ohio, and Wisconsin.
Western Tire Auto Stores, Inc.	Auto supply	48	Illinois, Indiana, and Wisconsin.
J & R Motor Supply Corp.	do	27	Illinois, Iowa, and Missouri.
Virginia Dare Stores, Corp.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Val-U-Dress Shops, Inc.	do	42	Illinois, Indiana, and Ohio.
Whitehouse & Hardy	do	8	Florida and New York.
Wormser Hat Stores, Inc.	do	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

MICHIGAN—Continued

Company	Category	Number of stores	Other States of operation
E. G. Shinner & Co., Inc.	Food supply	47	Illinois, Iowa, Ohio, Wisconsin, and Pennsylvania.
Epko Shoes, Inc.	Shoes	26	Indiana, New York, and Ohio.
Nettleton Shops, Inc.	do	45	All States.
Buckeye Shoe Co.	do	6	Ohio.
Michaels & Mann, Inc.	Clothing and furnishings	10	Illinois, Indiana, Kentucky, and Ohio.
Homer Hayden's, Inc.	do	14	Indiana.
Jerrols	do	10	Ohio and Wisconsin.
Gramont Co., Inc.	do	9	California, Illinois, Maryland, Missouri, New Jersey, New York, and Pennsylvania.
Puritan Federal Clothing Stores, Inc.	do	46	Connecticut, Illinois, Indiana, Maine, Massachusetts, New Hampshire, Ohio, Pennsylvania, and Vermont.
The Custom Shops	do	26	California, District of Columbia, Illinois, Maryland, Minnesota, New Jersey, New York, Ohio, and Pennsylvania.
King Clothing Co., Inc.	do	18	Indiana, Ohio, and Texas.
Tall Apparel Shops	Clothing	7	District of Columbia, Maryland, Massachusetts, Minnesota, New York, and Pennsylvania.
Tanne-Arden, Inc.	do	36	Arizona, California, Colorado, Kentucky, Massachusetts, Nevada, Oklahoma, Oregon, Texas, Utah, Washington, and New York.
Morrison Stores Corp.	Clothing and furnishings	12	Connecticut, Delaware, Indiana, and New York.
National Bellas Hess Stores, Inc.	do	45	Minnesota, Missouri, North Carolina, South Carolina, and Puerto Rico.
Orva Hosiery	do	8	Ohio.
Lewis Apparel Stores, Inc.	do	35	Connecticut, Kansas, Massachusetts, New York, North Carolina, Ohio, and Oklahoma.
Best & Co., Inc.	do	19	Connecticut, District of Columbia, Ohio, Massachusetts, New Jersey, New York, New York, Pennsylvania, and Virginia.
Kamber Co., Inc.	do	8	Illinois, Indiana, Maine, and Missouri.
Crown Self-Service Shoe Stores, Inc.	Shoes	38	Illinois, Indiana, Ohio, and Wisconsin.
Kitty Kelly Shoe Corp.	do	39	Florida, Illinois, Kentucky, Maryland, New Jersey, New York, Ohio, and Pennsylvania.
Maling Shoes	do	31	Illinois, Indiana, Ohio, and Wisconsin.
Midland Shoe Co.	do	38	Alabama, Arkansas, Indiana, Iowa, Louisiana, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.
Morton's Shoe Stores, Inc.	do	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Weiss & Neumann Shoe Co.	do	50	Arkansas, Illinois, Indiana, Iowa, Kansas, Minnesota, Texas and Wisconsin.
Leath & Co.	Furniture	37	Illinois, Indiana, Iowa, Minnesota, and Wisconsin.
Grinnell Bros.	do	29	Ohio, Ontario, and Canada.
E. P. Roe Stores	Clothing and furnishings	14	Illinois, Indiana, Iowa, Ohio, and Pennsylvania.

MINNESOTA

Tall Apparel Shops	Clothing	7	District of Columbia, Maryland, Massachusetts, Michigan, New York, and Pennsylvania.
The Customs Shops	Clothing and furnishings	26	California, District of Columbia, Illinois, Maryland, Michigan, New Jersey, New York, Ohio, and Pennsylvania.
Linpark Clothing Corp.	do	12	Iowa, Nebraska, New York, South Dakota, and Wisconsin.
National Bellas Hess Stores, Inc.	do	45	Michigan, Missouri, North Carolina, South Carolina, and Puerto Rico.
M & W Martin Co., Inc.	do	16	Georgia, Iowa, Kansas, Montana, and North Carolina.
Millinery Stores	do	27	Connecticut, Washington, District of Columbia, Illinois, Indiana, Ohio, Tennessee, and Texas.
French, Shriner & Umer	Shoes	17	California, Massachusetts, New York, Ohio, and Pennsylvania.
Hurrie Bros. Shoe Co.	do	7	Iowa and Wisconsin.
Tradehome Shoe Stores, Inc.	do	20	Iowa, South Dakota, and Wisconsin.
Weiss & Neumann Shoe Co.	do	50	Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Texas, and Wisconsin.
T. G. Allin Co.	Hardware	11	Wisconsin.
Lincoln Stores, Inc.	do	8	Do.
Scheel's Hardware	do	37	North Dakota and Montana.
Leath & Co.	Furniture	9	Indiana, Iowa, Michigan, and Wisconsin.
Davidson-Boutell Co.	do	9	Missouri and Nebraska.
Virginia Dare Stores, Corp.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Wormser Hat Stores, Inc.	do	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Swanson's Super Stores	Food supply	8	Iowa.
Rivin Bros. Stores	do	7	Iowa, and South Dakota.
Nettleton Shops, Inc.	Shoes	45	All States.
Nunn-Bush Shoe Co.	do	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
National 5¢-\$1 Stores	Variety	12	Iowa and South Dakota.
C. J. Silver Jewelers, Inc.	Jewelry	9	Wisconsin and Iowa.
Lindrud's 5¢-\$1 Stores	Variety	15	North Dakota and South Dakota.
Piggly Wiggly Northland Co.	Food	8	North Dakota.
Geyerman's, Inc.	Clothing and furnishings	5	South Dakota and South Carolina.
Great Minneapolis Surplus Stores	Discount stores	6	Iowa and North Dakota.
Gem, Inc.	do	7	Colorado, Hawaii, Kansas, Missouri, and Pennsylvania.
Mathisen Tire Co.	Miscellaneous	7	Michigan, North Dakota, and Wisconsin.
Super Valu Stores, Inc.	Food	11	Wisconsin.
Arenz Shoe Co.	Shoe store	6	Iowa and Wisconsin.
Associated Drugs, Inc.	Drug store	8	North Dakota.
Oscor Drug Co.	do	30	Illinois, Indiana, Iowa, North Dakota, and Wisconsin.
Buttrey Stores, Inc.	Clothing and furnishings	23	Iowa, North Dakota, South Dakota, and Wisconsin.
Foreman & Clark of Minnesota, Inc.	do	5	Illinois, Iowa, and Nebraska.
Schaffer's	do	8	Colorado, Iowa, Nebraska, and Texas.
Adams Management Corp.	do	12	Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Texas.
Jack Stevens Clothes	do	7	Maryland, Massachusetts, Michigan, and Ohio.

MISSISSIPPI

Kuhn Bros. Co.	Variety	43	Also operates in Kentucky, Tennessee, and Alabama.
Big 10 Tire Co., Inc.	Miscellaneous	5	Also operates in Louisiana.
Sunflower Stores, Inc.	Food	8	Also operates in Arkansas.
Wallace E. Johnson Supply Co.	Miscellaneous	7	Also operates in Arkansas and Tennessee.
Olan Mills, Inc.	do	35	Also operates in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia.
Hale Drug Co.	Drugs	14	Also operates in Alabama, Arkansas, Georgia, North Carolina, and Tennessee.
Albright & Wood, Inc.	do	20	Also operates in Alabama and Florida.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

MISSISSIPPI—Continued

Company	Category	Number of stores	Other States of operation
United Shoe Stores Co.	Shoes	44	Also operates in Louisiana, Arkansas, Georgia, Texas, Oklahoma, Tennessee, and others.
R. O. Brown Stores	Clothing and furnishings	5	Also operates in Alabama and Louisiana.
Leets, Inc.	do	5	Also operates in Missouri and Illinois.
Schwobilt Clothes	do	29	Also operates in Alabama, Florida, Georgia, and Mississippi.
Auto-Lec Stores, Inc.	Auto supply	50	Also operates in Alabama, Florida, Louisiana, and Tennessee.
Jack Mashburn, Inc.	do	5	Also operates in Louisiana.
My Shop, Inc.	Clothing and furnishing	41	Alabama, Georgia, Illinois, Indiana, Louisiana, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
O. P. O. Clothes	do	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, North Carolina, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Sumner Stores Corp.	Clothing	33	Alabama, Arizona, Florida, Georgia, Louisiana, South Carolina, Texas, Tennessee, Virginia, and New York.
Eleanor Shops, Inc.	Clothing and furnishings	40	Alabama, Georgia, North Carolina, Pennsylvania, South Carolina, and Virginia.
Midland Shoe Co.	Shoes	38	Alabama, Arkansas, Indiana, Iowa, Louisiana, Michigan, Missouri, Oklahoma, Texas, and Wisconsin.
Weiss Bros. Stores, Inc.	Clothing and furnishings	19	Alabama, Georgia, Indiana, Louisiana, Oklahoma, Tennessee, and Texas.
Plk-Quick Food Stores	Food supply	5	Louisiana.
Nettleton Shops, Inc.	Shoes	45	All States.
Nunn-Bush Shoe Co.	do	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
W. E. Walker Stores, Inc.	Variety	31	Louisiana.
Handelman's	do	14	Do.
Barnett-Levey Co.	do	14	Arkansas and Tennessee.
John Mullins & Sons, Inc.	Furniture	17	Florida, South Carolina, and New York.

MISSOURI

Gramont Co., Inc.	Clothing and furnishings	9	Also operates in California, Illinois, Maryland, Michigan, New Jersey, New York and Pennsylvania.
Ripley Clothes	Clothing	41	Also operates in District of Columbia, Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island.
Montaldo's	Clothing and furnishings	11	Also operates in Arkansas, Colorado, New Jersey, North Carolina, Ohio, Oklahoma, and Virginia.
National Bellas Hess Stores, Inc.	do	45	Also operates in Michigan, Minnesota, North Carolina, South Carolina, and Puerto Rico.
Consolidated Retail Stores, Inc.	do	29	Also operates in Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Krasner Bros., Inc.	do	26	Also operates in Kentucky, Maryland, Tennessee, and West Virginia.
Kamher Co., Inc.	do	8	Also operates in Illinois, Indiana, Maine, and Michigan.
Midwest Drive-In Shoe Shop	Shoes	8	Also operates in Kansas.
Modern Retail, Inc.	do	6	Also operates in Illinois and Kansas.
Robinson Shoe Co.	do	6	Also operates in Kansas.
Steve's Shoes, Inc.	do	7	Do.
American Shoe Co., Inc.	do	29	Also operates in Indiana, Kentucky, North Dakota, and Tennessee.
Caldwells' Shoes, Inc.	do	7	Also operates in Kansas and South Dakota.
Geo. E. Keith Co.	do	14	Also operates in Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
Midland Shoe Co.	do	38	Also operates in Alabama, Arkansas, Indiana, Iowa, Louisiana, Michigan, Mississippi, Oklahoma, Texas, and Wisconsin.
Rhodes-Burford Inc.	Furniture	12	Also operates in Illinois, Indiana, and Kentucky.
Biederman Furniture Co.	do	11	Also operates in Illinois.
Davidson-Boutell Co.	do	9	Also operates in Minnesota and Nebraska.
Wilbur-Rogers, Inc.	Clothing and furnishings	38	Also operates in Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
Virginia Darc Stores, Corp.	do	46	Also operates in Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Wormser Hat Stores, Inc.	do	42	Also operates in Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Karbe's Inc.	Food supply	12	Also operates in Arkansas and Kansas.
Hyde & Vredenhurg, Inc.	do	38	Also operates in Iowa.
Foodtown Supermarkets, Inc.	do	25	Also operates in Kansas and Oklahoma.
Benner Tea Co.	do	33	Also operates in Iowa and Illinois.
Niemann Bro.	do	6	Also operates in Illinois.
Tri-City Grocery Co.	do	21	Do.
Buehler Markets	do	20	Also operates in Illinois, Georgia, Iowa, Massachusetts, Nebraska, Pennsylvania, and Tennessee.
Ohio Markets	do	6	Also operates in Illinois.
Nettleton Shops, Inc.	Shoes	45	Also operates in all States.
Geo. E. Keith Co.	do	14	Also operates in Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
Big B One Hour Cleaners	Dry cleaning	15	Also operates in Florida, Illinois, Iowa, Kentucky, Tennessee, and Virginia.
Newport Stores	Variety	7	Also operates in Arkansas.
M. L. Hunter's 5c-\$1 Stores	do	6	Also operates in Illinois.
P. M. Place Stores Co.	do	12	Also operates in Iowa.
Friedman's	do	5	Also operates in Arkansas.
Horton's 5-10-25-cent Stores	do	5	Do.
Acme-Harding Glass, Inc.	Miscellaneous stores	16	Also operates in Colorado, Iowa, Kansas, and Nebraska.
Wolfe's Camera Shops, Inc.	do	5	Also operates in Kansas.
Nunn-Bush Shoe Co.	Shoes	23	Also operates in Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, New York, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Helzberg's Diamond Shops, Inc.	Jewelry	15	Also operates in Iowa and Kansas.
Newton Jewelry Co.	do	8	Also operates in Arkansas, Iowa, and Oklahoma.
Russell's 5-Cent-\$1 Stores	Variety	10	Also operates in Kansas.
Gateway Sporting Goods Co.	Miscellaneous	7	Do.
Gem, Inc.	Discount stores	7	Also operates in Colorado, Hawaii, Kansas, Minnesota, and Pennsylvania.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

MISSOURI—Continued

Company	Category	Number of stores	Other States of operation
Fred Wolfermann, Inc.	Food	9	Also operates in Oklahoma.
Milgram Food Stores, Inc.	do	20	Also operates in Kansas.
Walton's 5-10-Cent Stores	Variety	11	Also operates in Arkansas.
Morris Paint Co.	Miscellaneous	10	Also operates in Illinois, Iowa, and Nebraska.
Longwear Paint & Varnish Works	do	7	Also operates in Kansas, Oklahoma, and Texas.
Harper Rug Corp.	do	6	Also operates in Kansas.
Great Western Paint Co.	do	6	Do.
Remnant House (fabrics)	do	14	Also operates in Arkansas, Illinois, Indiana, Kentucky, and Tennessee.
Crank Drug Co.	Drugstore	9	Also operates in Arkansas.
Parkview Drugs of Kansas City, Inc.	do	29	Also operates in Kansas.
Katz Drug Co.	do	42	Also operates in Iowa, Kansas, Oklahoma, and Tennessee.
Crown Drug Co.	do	44	Also operates in Kansas and Oklahoma.
Brown's Shoe Fit Co.	Shoes	40	Also operates in Colorado, Iowa, Kansas, Nebraska, and North Dakota.
Beard & Gabelman, Inc.	Clothing and furnishings	36	Also operates in Iowa, Kansas, Nebraska, Oklahoma, South Dakota and Texas.
Rothschild's	do	7	Also operates in Oklahoma.
Dotty Shops, Inc.	do	6	Also operate in Illinois, Kentucky, and Tennessee.
Lects, Inc.	do	5	Also operates in Illinois and Mississippi.
Lisbon Shops, Inc.	do	20	Also operates in Illinois and Iowa.
Salle Ann Shops, Inc.	do	19	Also operates in Illinois and Texas.
House of Nine, Inc.	do	34	Also operates in California, Arizona, Texas, Colorado, Michigan, Utah, Oregon, and Pennsylvania.
Miami Sales Co.	Auto supply	11	Also operates in Kansas and Oklahoma.
H. Imber & Sons, Inc.	Clothing and furnishings	5	Also operates in Illinois.
Midwest Auto Stores, Inc.	Auto supply	12	Also operates in Kansas.
Major Auto Supply, Inc.	do	8	Also operates in Illinois.
Marshall's Auto Stores	do	13	Also operates in Kansas.
J & R Motor Supply Co.	do	27	Also operates in Illinois, Iowa, and Michigan.

MONTANA

M & W Martin Co., Inc.	Clothing and furnishings	16	Also operates in Georgia, Iowa, Kansas, Minnesota, and North Carolina.
Scheel's Hardware	Hardware	8	Also operates in North Dakota and Minnesota.
Nettleton Shops, Inc.	Shoes	45	Also operates in all States.
Nunn-Bush Shoe Co.	Shoestore	23	Also operates in Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
M. H. King Co.	Variety	20	Also operates in Idaho, Oregon, and Utah.
F. T. Reynolds Co.	Food	8	Also operates in North Dakota.
Sawyer Stores, Inc.	do	13	Also operates in Wyoming.
Skaggs Drug Center, Inc.	Drugstore	28	Also operates in Arizona, Colorado, Idaho, Louisiana, Nevada, New Mexico, Oklahoma, Texas, and Utah.
Sweethriar Shops, Inc.	Clothing and furnishings	48	Also operates in Arizona, Colorado, Idaho, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming.
Conrad's, Inc.	do		Also operates in Colorado, Idaho, Oregon, Utah, Washington, and Wyoming.

NEBRASKA

L. A. Sullivan Stores	Variety	6	Colorado.
Acme-Harding Glass, Inc.	Miscellaneous	16	Colorado, Iowa, Kansas, and Missouri.
Caldwell's, Inc.	do	7	Kansas and Colorado.
L. B. Murphy Co.	Variety	8	Wyoming.
Anderson's, Inc.	Food		South Dakota.
Food Centers, Inc.	do	8	Wyoming.
Shaver's Food Stores	do	7	Iowa.
Hinky-Dinky Stores	do	38	Do.
The National Hotel Co.	Drug	14	Alabama, Indiana, Louisiana, South Carolina, Texas, and Virginia.
Calandra Camera Co., Inc.	Miscellaneous	9	Iowa.
Morris Paint Co.	do	10	Missouri, Illinois, and Iowa.
Brown's Shoe Fit Co.	Shoes	40	Colorado, Iowa, Kansas, Missouri, and North Dakota.
Foreman & Clark of Minn., Inc.	Clothing and furnishings	5	Illinois, Iowa, and Minnesota.
Schaffer's	do	8	Colorado, Iowa, Minnesota, and Texas.
Sweethriar Shops, Inc.	do	48	Arizona, Colorado, Idaho, Montana, Kansas, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming.
Limpark Clothing Corp.	do	12	Iowa, Minnesota, New York, South Dakota, and Wisconsin.
Jarold Shops, Inc.	do	19	Kansas, Oklahoma, and South Dakota.
L. Goldman Shoe Co.	Shoe	5	Colorado, South Dakota, and Wyoming.
S. A. Foster Lumber Co.	Hardware	9	Colorado and Wyoming.
Davidson-Boutell Co.	Furniture	9	Minnesota and Missouri.
Virginia Dare Stores, Corp.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Worsmer Hat Stores, Inc.	do	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Ohio, Oklahoma, Tennessee, and Texas.
Buehler Markets	Food supply	20	Illinois, Georgia, Iowa, Massachusetts, Missouri, Pennsylvania, and Tennessee.
Nettleton Shops, Inc.	Shoe	45	All States.
Nunn-Bush Shoe Store	do	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Beard & Gabelman, Inc.	Clothing and furnishings	36	Iowa, Missouri, Kansas, Oklahoma, South Dakota, and Texas.
Harvey Bros., Inc.	do	6	Illinois, Indiana, and Kansas.
Stickney's Inc.	Auto supply	10	Colorado and Wyoming.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

NEVADA

Company	Category	Number of stores	Other States of operation
Tanne-Arden, Inc.	Clothing	36	Also operates in Arizona, California, Colorado, Kentucky, Massachusetts, Michigan, Oklahoma, Oregon, Texas, Utah, Washington, and New York.
National Shoe Co., Ltd.	Shoes	32	Also operates in Arizona, California, and Oregon.
Roe Bros. Stores, Inc.	do	46	Also operates in Arizona, California, Colorado, Idaho, New Mexico, Oregon, Texas, Washington, and Wyoming.
McMahan's Furniture Co.	Furniture	37	Also operates in California and Idaho.
Riviera Sofa Bed Co.	do	5	Also operates in California.
Nettleton Shops, Inc.	Shoes	45	Also operates in all States.
Rogers Jewelry Co., Inc.	Jewelry	8	Also operates in California and Oregon.
Gensler-Lee Diamonds	do	26	Also operates in California.
Skaggs Drug Center, Inc.	Drugstore	28	Also operates in Arizona, Colorado, Idaho, Louisiana, Montana, New Mexico, Oklahoma, Texas, and Utah.
Allen's Cash Stores	Food	8	Also operates in Utah.
Concord Drug Store, Inc.	Drugstore	8	Also operates in California.
Joseph Magin Co., Inc.	Clothing and furnishings	15	Do.
Lanz of California, Inc.	do	11	Do.

NEW HAMPSHIRE

Puritan Federal Clothing Stores, Inc.	Clothing and furnishings	46	Connecticut, Illinois, Indiana, Maine, Massachusetts, Michigan, Ohio, Pennsylvania and Vermont
Good-Val Stores Corp.	do	26	Florida, Georgia, Massachusetts, New York, North Carolina, Pennsylvania, South Carolina, and Virginia.
P & Q Shops, Inc.	do	9	Connecticut, Massachusetts and Rhode Island.
Druss Stores	do	6	Connecticut, New Jersey, and New York.
Morton's Shoe Stores, Inc.	Shoes	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Tredwell Shoe Corp.	do	26	Connecticut and Massachusetts.
I. H. Morse Shoe Stores, Inc.	do	8	Maine and Massachusetts.
Morse Shoe Store Corp.	do	38	Massachusetts and New York.
Diamond National Corp.	Hardware	26	Connecticut, Maine, Massachusetts, Rhode Island, and Vermont.
L. Grossman Sons, Inc.	do	25	Maine, Massachusetts, and Rhode Island.
Middlesex Supply Co.	do	30	Maine and Massachusetts.
Save-Mor Furniture Stores, Inc.	Furniture	6	Massachusetts.
Elm Farm Food Co.	Food supply	40	Massachusetts and Maine.
Nettleton Shops, Inc.	Shoes	45	All States.
Scott Jewelry Co.	Jewelry	11	Massachusetts.
Allied Shoe Co.	Shoes	33	Massachusetts, Connecticut, Maine, Rhode Island, Maryland, New Jersey, New York, and Pennsylvania.
Nunn-Bush Shoe Co.	Shoestore	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
M. N. Landau Stores, Inc.	Variety	20	New York, Connecticut, Indiana, Massachusetts, Michigan, New Jersey, North Carolina, and Texas.
M. H. Fishman Co., Inc.	do	47	New York, Delaware, Maine, New Jersey, Ohio, Pennsylvania, Vermont, Virginia, and Massachusetts.
Godin Stores	do	12	Massachusetts.
Max Dichter, Inc.	do	5	Massachusetts and Vermont.
Atlas Paint & Supply Co.	Miscellaneous	27	Massachusetts.
Adams Drug Co., Inc.	Drugs	20	Rhode Island and New York.
Wig Warm Moccasins, Inc.	Shoes	15	Massachusetts and Maine.
Kennedy's, Inc.	Clothing and furnishings	16	Connecticut, Maine, Massachusetts, and Rhode Island.
Prudence Clothes, Inc.	do	8	Connecticut, Maine, and Massachusetts.
Berkeley Stores, Inc.	do	8	Massachusetts.
LaMode Corset Shops	do	6	Massachusetts and Maine.
Eastern Auto Parts Co.	Auto supply	10	Massachusetts.
Murray Kaufman Co., Inc.	do	12	Maine and Massachusetts.
Myral's, Inc.	do	8	Maine.

NEW JERSEY

Kitty Kelly Shoe Corp.	Shoes	39	Also operates in Florida, Illinois, Kentucky, Maryland, Michigan, New York, Ohio, and Pennsylvania.
Adler Sons Shoe Corp.	do	24	Also operates in New York.
Comfort Coal-Lumber Co.	Hardware		Do.
Virginia Dare Stores, Corp.	Clothing and furnishings	46	Also operates in Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Wilbur-Rogers, Inc.	do	38	Also operates in Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
Wallachs, Inc.	do	13	Also operates in New York.
Weber & Heibroner	do	12	Do.
Alfred H. Cohen & Son	Shoes	6	Also operates in Delaware and Pennsylvania.
J. B. Van Sciver Co.	Furniture	7	Do.
Foam Rubber Center	do	10	Also operates in New York and Pennsylvania.
National Cleaning Enterprises, Inc.	Drycleaning	33	Pennsylvania, Massachusetts, and Rhode Island.
Laundercenter Corp.	do	13	Connecticut, Massachusetts, and New York.
Corsetorium, Inc.	Clothing and furnishings	14	New York.
Rainbow Shops, Inc.	do	30	Do.
Mae Moon Associates	do	30	Do.
Natelson Bros., Inc.	do	6	Connecticut and New York.
Sa-Lee Shops, Inc.	do	5	Maryland and Pennsylvania.
Stevens Retail Stores, Inc.	do	14	Connecticut and New York.
Jaunty Dress Shops, Inc.	do	12	Georgia and Pennsylvania.
Terry Shops	do	24	Delaware, Maryland, New York, and Virginia.
Webster Clothes, Inc.	do	19	Washington, D.C., Indiana, Kentucky, Maryland, North Carolina, Ohio, Virginia, and West Virginia.
Hartfield Stores, Inc.	do	45	California, Arizona, New York, Oregon, Washington, and Hawaii.
Shellenherger's, Inc.	Candy stores	19	Pennsylvania.
Rose Auto Supply Co.	Auto supply	17	Do.
Penn-Jersey Auto Stores, Inc.	do	27	Delaware, District of Columbia, and Pennsylvania.
Tire Mart Stores Corp.	do	27	California, New York, Pennsylvania, and Illinois.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

NEW JERSEY—Continued

Company	Category	Number of stores	Other States of operation
Samuel Schuitz Co.	Miscellaneous	7	Pennsylvania.
Finnaren & Haley, Inc.	do	11	Do.
M & H Sporting Goods Co.	do	7	Do.
Allied Hobbies	do	8	Do.
Amber Tile Discount Houses	do	5	Do.
M. Buten & Sons	do	19	Pennsylvania and Delaware.
Cutler's Paint Stores	do	11	Pennsylvania.
Sav-On Drugs Inc.	Drugstore	7	New York.
Mack Drug Co.	do	15	New York and Massachusetts.
Slico Cut Price Stores, Inc.	Drugs	50	Delaware, Maryland, North Carolina, Pennsylvania, Virginia, and West Virginia.
National 5¢ & 10¢ Stores, Inc.	Variety	7	Delaware and Maryland.
I. Simon Co., Inc.	Shoes	27	New York and Pennsylvania.
Baxter Stores, Inc.	Clothing and furnishings	25	Alabama, Florida, Georgia, New York, North Carolina, Pennsylvania, South Carolina, and Tennessee.
Adams Management Corp.	do	12	Massachusetts, Minnesota, New York, Pennsylvania, Rhode Island, and Texas.
Two Guys From Harrison	Discount stores	17	Maryland, New York, and Pennsylvania.
Masters, Inc.	do	10	Florida, New York, and Pennsylvania.
Tower Marts, Inc.	do	12	Connecticut, District of Columbia, Maryland, Massachusetts, and Pennsylvania.
Bargain City, U.S.A.	do	13	Pennsylvania and Virginia.
Allen Carpet Shops, Inc.	Miscellaneous	11	New York.
Raphan Carpet Corp.	do	15	New York and Connecticut.
Churchill Custom Hi-Fidelity, Ltd.	do	7	New York.
Rayco Manufacturing Co.	do	30	
Atlantic Appliance Co., Inc.	do	12	Pennsylvania.
Trader Horn Appliance Stores	do	8	New York.
Tires, Inc.	do	8	Do.
Kaufman Carpet Co., Inc.	do	11	Do.
Goubaud de Paris, Inc.	do	28	California, Connecticut, District of Columbia, Florida, New York, Pennsylvania, Canada.
Davega Stores Corp.	do	28	New York.
Brentano's, Inc.	do	13	District of Columbia, Virginia, Maryland, and New York.
Peper Bros., Inc.	do	10	New York.
Adeline Apparel Shops, Inc.	Clothing and furnishings	49	Also operates in Arkansas, Illinois, Indiana, New York, North Carolina, Ohio, Tennessee, Pennsylvania, and Virginia.
Albrecht's Retail Stores, Inc.	do	18	Also operates in New York and Connecticut.
Gramont Co., Inc.	do	9	Also operates in California, Illinois, Maryland, Michigan, Missouri, New York, and Pennsylvania.
Label Youth Centers	do	40	Also operates in Massachusetts, New York, and Pennsylvania.
My Shop, Inc.	do	41	Also operates in Alabama, Georgia, Illinois, Indiana, Louisiana, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
The Custom Shops	do	26	Also operates in California, District of Columbia, Illinois, Maryland, Michigan, Minnesota, New York, Ohio, and Pennsylvania.
Knickerbocker Haberdasher, Inc.	do	7	Also operates in New York.
Rio Frocks, Inc.	Clothing	10	Also operates in New York and Pennsylvania.
Ripley Clothes	do	41	Also operates in Connecticut, District of Columbia, Massachusetts, Missouri, New York, Pennsylvania, and Rhode Island.
Scot Ties, Ltd.	do	9	Also operates in New York.
Sultana Stores, Inc.	do	16	Do.
Best & Co., Inc.	Clothing and furnishings	19	Also operates in Connecticut, District of Columbia, Massachusetts, Michigan, New York, Ohio, Pennsylvania, and Virginia.
S. L. Hirsch Stores, Inc.	do	20	Also operates in New York.
Montaldo's	do	11	Also operates in Arkansas, Colorado, Missouri, North Carolina, Ohio, Oklahoma, and Virginia.
Ellay Stores, Inc.	do	43	Also operates in Illinois, Indiana, North Carolina, Ohio, Pennsylvania, Texas, and West Virginia.
Lorrains Smart Shops, Inc.	do	16	Also operates in Massachusetts, New York, and Pennsylvania.
Joy Stores, Inc.	do	18	Also operates in Indiana, Kentucky, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, and Wisconsin.
Cosmo Hosiery Shops	do	7	Also operates in Connecticut and New York.
Broadstreet's, Inc.	do	12	Also operates in Illinois, New Jersey, New York, Pennsylvania, and West Virginia.
Lady Rose Stores, Inc.	do	15	Also operates in New York.
Jubilee Shops, Inc.	do	15	Also operates in New York, Indiana, Kansas, Maryland, Ohio, Pennsylvania, Texas, and Virginia.
Milmar Shops, Inc.	do	12	Also operates in New York.
Browning Fifth Avenue	do	6	Do.
Cardinal Neckwear, Inc.	do	16	Also operates in District of Columbia, Florida, Illinois, Massachusetts, and New York.
Maternally Yours, Inc.	do	10	Also operates in New York.
Midtown Millinery Shops, Inc.	do	15	Do.
Druss Stores	do	6	Also operates in Connecticut, New Hampshire, and New York.
The Ormond Shops, Inc.	do	34	Also operates in Maryland, Pennsylvania, and West Virginia.
London Character Shoes	Shoes	29	Also operates in Connecticut and New York.
Perry's Shoes	do	14	Do.
Felsway Shoe Corp.	do	37	Also operates in Delaware, District of Columbia, Kentucky, Maryland, New York, North Carolina, Ohio, Pennsylvania, and South Carolina.
I. Miller Salons	do	14	Also operates in the District of Columbia, Florida, Illinois, Maryland, New York, and Pennsylvania.
Nettleton Shops, Inc.	do	45	All States.
Pediforme Shoe Co., Inc.	do	7	New York.
J & J Slater	do	8	California, District of Columbia, Illinois, and New York.
Stuart Brooks, Inc.	do	11	New York.
Wise Shoe Stores, Inc.	do	17	Do.
Allied Shoe Co.	do	33	Massachusetts, Connecticut, Maine, Maryland, New Hampshire, New York, Pennsylvania, and Rhode Island.
Nunn-Bush Shoe Co.	do	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
M. N. Landau Stores, Inc.	Variety	20	New York, Connecticut, Indiana, Massachusetts, Michigan, New Hampshire, North Carolina, and Texas.
S. E. Nichols Co.	do	10	New York.
M. H. Lamston, Inc.	do	17	Connecticut and New York.
Lerner Sleep Products	Furniture	30	New York.
Abelson's Inc.	Jewelry	14	Do.
Littman's Jewelers Stores	do	9	Pennsylvania.
Ray's Jewelry Stores	do	5	Do.
Rudolph Bros., Inc.	do	48	Illinois, Massachusetts, and New York.
Teppin's Inc.	do	18	New York and Pennsylvania.
M. H. Fishman Co., Inc.	Variety	47	New York, Delaware, Maine, Massachusetts, New Hampshire, Ohio, Pennsylvania, Vermont, and Virginia.
Fisher-Beer Co.	do	10	New York.
D. R. Pruitt Stores	do	5	Pennsylvania.
Penn Beef Co.	Food	11	Philadelphia.
Merit Farms, Inc.	do	35	New York.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

NEW JERSEY—Continued

Company	Category	Number of stores	Other States of operation
Rockower Bros., Inc.	Clothing and furnishings	25	Delaware, New York, Pennsylvania, and Virginia.
Famous Maid Shops	do	24	Pennsylvania.
Ritter's Millinery & Sportswear	do	15	Do.
Ward & Ward, Inc.	do	17	New York and Pennsylvania.
Daniel Renzin Apparel	do	7	Pennsylvania.
Adams Clothes, Inc.	do	16	Delaware and Pennsylvania.
Golden Dawn Hosiery Shops, Inc.	do	10	Pennsylvania.
Castro Convertible Corp.	Furniture	47	Connecticut, Florida, Maryland, Michigan, New York, Pennsylvania, District of Columbia, and Rhode Island.
Smilow Thielle Corp.	do	5	New York.
Mallory, Inc.	do	5	Do.
Sachs Quality Stores, Inc.	do	10	Do.
W. & J. Sloane, Inc.	do	11	California, Connecticut, District of Columbia, and New York.
Honey Dew Food Stores, Inc.	Food	9	Connecticut and New York.
Phillipsburg Grocery Co.	do	9	Pennsylvania.
Kings Supermarkets, Inc.	do	12	New York and Pennsylvania.
Max Dichter, Inc.	Discount stores	5	New York, Massachusetts, Ohio, and Vermont.

NEW MEXICO

Roe Bros. Stores, Inc.	Shoes	46	Arizona, California, Colorado, Idaho, Nevada, Oregon, Texas, Washington, and Wyoming.
Given Bros., Inc.	do	20	Arizona and Texas.
Nettleton Shops, Inc.	do	45	Also operates in all States.
Nunn-Bush Shoe Co.	Shoe store	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Heath Furniture Co.	Furniture	10	Also operates in Texas.
C. G. Morrison & Co., 5 Cent-\$1 Stores	Variety	18	Do.
E. B. Mott Co.	do	42	Do.
Giant Stores	Discount stores	5	Also operates in Illinois and Indiana.
Cashway Supermarkets	Food	6	Also operates in Texas.
Shop Rite Foods, Inc.	do	49	Do.
B. & J. Drug Co.	Drugstore	5	Also operates in Texas and Oklahoma.
Skaggs Drug Center, Inc.	do	28	Also operates in Arizona, Colorado, Idaho, Louisiana, Montana, Nevada, Oklahoma, Texas, and Utah.
Circle "K" Drive-In Food Stores	Food	34	Also operates in Arizona and Texas.
Evans Foodway Stores	do	10	Also operates in Texas.
Sweetbriar Shops, Inc.	Clothing and furnishings	48	Arizona, Colorado, Idaho, Montana, Kansas, Nebraska, Oklahoma, South Dakota, Texas, Utah, and Wyoming.
Maternity Modes	do	6	Also operates in Arizona and Texas.

NEW YORK

Albert's Hosiery Shops	Clothing and furnishings	10	Rhode Island.
Albrecht's Retail Stores, Inc.	do	18	Connecticut and New Jersey.
Adeline Apparel Shops, Inc.	do	49	Arkansas, Illinois, Indiana, New Jersey, North Carolina, Ohio, Tennessee, Pennsylvania, and Virginia.
Arlene Shops, Inc.	do	8	Ohio, Pennsylvania, and West Virginia.
Baxter Stores, Inc.	do	25	North Carolina, Pennsylvania, South Carolina, Tennessee, New Jersey, Alabama, Florida, and Georgia.
Adams Management Corp.	do	12	Massachusetts, Minnesota, New Jersey, Pennsylvania, Rhode Island, and Texas.
The Printz Co., Inc.	do	8	Ohio and Pennsylvania.
Stollman Shops	do	7	Vermont.
Corsetorium, Inc.	do	14	New Jersey.
My Maternity Shop, Inc.	do	45	Connecticut, Ohio, Pennsylvania, West Virginia, Ontario and Quebec, Canada.
Shapiro & Hersch	do	17	Pennsylvania.
Rainbow Shops, Inc.	do	30	New Jersey.
Mae Moon Associates	do	30	Do.
Tall Girl's Shops	do	6	Illinois, Michigan, and Ohio.
United Shirt Distributors, Inc.	do	39	Florida, Michigan, Ohio.
Natelson Bros., Inc.	do	6	Connecticut, New Jersey.
Stevens Retail Stores, Inc.	do	14	Do.
Terry Shops	do	24	New Jersey, Delaware, Maryland, and Virginia.
Markson Bros., Inc.	do	41	California, Arizona, Colorado, Illinois, Kansas, Maine, Massachusetts, Oklahoma, and Texas.
Hartfield Stores, Inc.	do	45	California, Arizona, New Jersey, Oregon, Washington, and Hawaii.
Tire Mart Stores Corp.	Auto supply	27	California, New Jersey, Pennsylvania, and Illinois.
Strauss Stores Corp.	do	42	Connecticut.
Retail Jenny Shops, Inc.	Clothing and furnishings	20	Indiana, Ohio, Pennsylvania, and West Virginia.
Puritan Federal Clothing Stores, Inc.	do	46	Connecticut, Illinois, Indiana, Maine, Massachusetts, Michigan, New Hampshire, Ohio, Pennsylvania, and Vermont.
Polly Perrey Stores, Inc.	do	20	Connecticut, and Pennsylvania.
Gladys Shops, Inc.	do	9	Midwest.
Glamor Shops, Inc.	do	50	Southeastern States.
Gramont Co., Inc.	do	9	California, Illinois, Indiana, Maryland, Michigan, Missouri, New Jersey, and Pennsylvania.
Good-Val Stores Corp.	do	26	Florida, Georgia, Massachusetts, New Hampshire, North Carolina, Pennsylvania, South Carolina, and Virginia.
Kenwin Shops, Inc.	do	20	Alabama, Georgia, North Carolina, and South Carolina.
Label Youth Centers	Clothing	40	Massachusetts, New Jersey, and Pennsylvania.
My Shop, Inc.	Clothing and furnishings	41	Alabama, Georgia, Illinois, Indiana, Iowa, Mississippi, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
O.P.O. Clothes	do	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Knickbocker Haberdasher, Inc.	do	7	New Jersey.
The Custom Shops	do	26	California, District of Columbia, Illinois, Maryland, Michigan, Minnesota, New Jersey, Ohio, and Pennsylvania.
Cranes-Mayos Clothes, Inc.	do	40	Delaware, Georgia, Illinois, Indiana, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
King Clothing Co., Inc.	do	18	Indiana, Michigan, Ohio, and Texas.
Rio Frocks, Inc.	Clothing	10	New Jersey and Pennsylvania.
Ripley Clothes	do	41	Connecticut, District of Columbia, Massachusetts, Missouri, New Jersey, New York, Pennsylvania, and Rhode Island.
Roaman's Women's Fashions Shops, Inc.	do	6	Massachusetts.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

NEW YORK—Continued

Company	Category	Number of stores	Other States of operation
Roger Kent, Inc.	Clothing	13	Connecticut, Massachusetts, and Pennsylvania.
Scot Ties, Ltd.	do	9	New Jersey.
Sultana Stores, Inc.	do	16	Do.
Tall Apparel Shops	do	7	District of Columbia, Maryland, Massachusetts, Michigan, Minnesota, and Pennsylvania.
Town Stores	do	11	Arizona, California.
Tanne-Arden, Inc.	do	36	Arizona, California, Colorado, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Texas, Utah, Washington.
Sumner Stores Corp.	do	33	Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, South Carolina, Texas, Tennessee, Virginia.
Morrison Stores Corp.	Clothing and furnishings	12	Connecticut, Delaware, Indiana, Michigan.
Eleanor Shops, Inc.	do	40	Alabama, Mississippi, North Carolina, Pennsylvania, South Carolina, Virginia, Georgia.
Montaldo's	do	11	Arkansas, Colorado, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, Virginia.
Ellay Stores, Inc.	do	43	Indiana, North Carolina, Ohio, Pennsylvania, Texas, West Virginia, New Jersey, Illinois.
M & W Martin Co.	do	16	Georgia, Iowa, Kansas, Minnesota, Montana, North Carolina.
Krasner Bros., Inc.	do	26	Kentucky, Maryland, Missouri, Tennessee, West Virginia.
Lady Oris Hosiery Shops	do	11	Illinois, Kentucky, Louisiana, Tennessee, Texas.
Lorrains Smart Shops Inc.	do	16	Massachusetts, New Jersey, Pennsylvania.
Cosmo Hosiery Shops	do	7	Connecticut, New Jersey.
Linpark Clothing Corp.	do	12	Iowa, Minnesota, Nebraska, South Dakota, Wisconsin.
Irving O. Livingston, Inc.	do	16	Delaware, Illinois, Indiana.
Joanly Shops, Inc.	do	21	North Carolina, Pennsylvania, South Carolina.
National Bellas Hess Stores, Inc.	do	45	Michigan, Minnesota, Missouri, North Carolina, South Carolina, and Puerto Rico.
Joy Stores, Inc.	do	18	Indiana, Kentucky, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, and Wisconsin.
Broadstreet's, Inc.	do	12	Illinois, New Jersey, Pennsylvania, and West Virginia.
Morton's	do	5	District of Columbia, Maryland, and Virginia.
Lady Rose Stores, Inc.	do	15	New Jersey.
Hofstadter & Albert Millinery Corp.	do	7	District of Columbia, Maryland, Ohio, Pennsylvania, and Virginia.
S. L. Hirsch Stores, Inc.	do	20	New Jersey.
Bonwit Teller	do	8	Florida, Illinois, Massachusetts, and Ohio.
Best & Co., Inc.	do	19	Connecticut, District of Columbia, Massachusetts, Michigan, New Jersey, Ohio, Pennsylvania, and Virginia.
Blackton 5th Avenue, Ltd.	do	10	Florida.
Benhil Shirt Shops, Inc.	do	24	Florida, and Puerto Rico.
Felsway Shoe Corp.	Shoes	37	Delaware, District of Columbia, Kentucky, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, and South Carolina.
Norstan Apparel Shop, Inc.	Clothing and furnishing	10	Ohio, and Pennsylvania.
Juhilee Shops, Inc.	do	15	Indiana, Kansas, Maryland, New Jersey, Ohio, Pennsylvania, Texas, and Virginia.
Kamber Co., Inc.	do	8	Illinois, Indiana, Maine, Michigan, and Missouri.
Jane Lee Stores, Inc.	do	38	Connecticut, Illinois, Indiana, Kansas, and Kentucky.
Cardinal Neckwear, Inc.	do	16	District of Columbia, Florida, Illinois, Massachusetts, and New Jersey.
Lewis Apparel Stores, Inc.	do	35	Connecticut, Kansas, Massachusetts, Michigan, North Carolina, Ohio, and Oklahoma.
Browning Fifth Avenue	do	6	New Jersey.
Brooks Fashion Stores, Inc.	do	18	Illinois, Ohio, and Wisconsin.
Miss New York Frocks, Inc.	do	5	Massachusetts and Vermont.
Millinery Stores	do	27	Connecticut, District of Columbia, Illinois, Indiana, Minnesota, Ohio, Tennessee, and Texas.
Parkfield Shops, Inc.	do	10	Connecticut, Ohio, and Pennsylvania.
Plymouth Shops, Inc.	do	18	New York.
P & Q Shops Inc.	do	9	Connecticut, Massachusetts, New Hampshire, and Rhode Island.
Orva Hosiery	do	8	Michigan, and Ohio.
Brooks Bros. Clothing	do	7	California, Illinois, and Massachusetts.
Milmar Shops, Inc.	do	12	New Jersey.
Jean Frocks, Inc.	do	39	Ohio and Pennsylvania.
Jarold Shops, Inc.	do	19	Nebraska, Kansas, Oklahoma and South Dakota.
Maternally Yours, Inc.	do	10	New Jersey.
Midtown Millinery Shops, Inc.	do	15	Do.
The Ormond Shops, Inc.	do	34	Maryland, New Jersey, Pennsylvania and West Virginia.
Dundee Smart Clothes, Inc.	do	15	California, Pennsylvania, Texas, Utah, and Washington.
Druss Stores	do	6	Connecticut, New Hampshire, and New Jersey.
David's Specialty Shops, Inc.	do	15	District of Columbia, Ohio, and Virginia.
Tanen Shoe Co.	Shoes	6	Connecticut, and Massachusetts.
Morton's Shoe Stores, Inc.	do	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Perry's Shoes	do	14	Connecticut, and New Jersey.
Shelbro, Inc.	do	5	Connecticut, Rhode Island, and Virginia.
I. Miller Salons	do	14	District of Columbia, Florida, Illinois, Maryland, New Jersey, and Pennsylvania.
Kitty Kelly Shoe Corp.	do	39	Florida, Illinois, Kentucky, Maryland, Michigan, New Jersey, Ohio, and Pennsylvania.
Lloyd & Haig Shoe Corp.	do	7	Illinois, and Pennsylvania.
London Character Shoes	do	29	Connecticut, and New Jersey.
Morse Shoe Store Corp.	do	38	Massachusetts, and New Hampshire.
French, Shriner & Uner	do	17	California, Massachusetts, Minnesota, Ohio, and Pennsylvania.
Adler Sons Shoe Corp.	do	24	New Jersey.
Geo. E. Keith Co.	do	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, Ohio, Pennsylvania, Tennessee, Texas, and Utah.
Comfort Coal-Lumber Co.	Hardware	5	New Jersey.
County Hardware Corp.	do	7	Connecticut.
Kemp Lumber Co.	do	7	Texas.
Whipple Bros., Inc.	do	7	Pennsylvania.
Zukor's	Clothing and furnishings	16	California, Oregon, and Washington.
Wilnat Stores	do	22	do.
Woodrow Stores, Inc.	do	15	Alabama, Arizona, Florida, Louisiana, and North Dakota.
Mutual Clothing Co., Inc.	do	5	Ohio.
Unger's Hosiery & Frocks, Inc.	do	11	Connecticut and Massachusetts.
Virginia Dare Stores Corp.	do	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Val-U-Dress Shops, Inc.	do	42	Illinois, Indiana, Michigan, and Ohio.
Wormser Hat Stores, Inc.	do	42	Alabama, Arkansas, Colorado, District of Columbia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, and Georgia.
Williams Retail Stores, Inc.	do	7	Delaware, New Jersey, and Pennsylvania.
Whitehouse & Hardy	do	8	Florida, Michigan, and New York.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

NEW YORK—Continued

Company	Category	Number of stores	Other States of operation
Wilbur-Rogers, Inc.	Clothing and furnishings	38	Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
Wallach's, Inc.	do.	13	New Jersey.
Weber & Helbronner	do.	12	Do.
Weiss Bros. Stores, Inc.	do.	19	Alabama, Georgia, Indiana, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.
Epko Shoes, Inc.	Shoes	26	Indiana, Michigan, and Ohio.
Brown's Boot Shops, Inc.	do.	24	Pennsylvania.
Thrifty Shoe Stores, Inc.	do.	24	Maryland and Pennsylvania.
Kay's-Newport, Inc.	do.	21	Massachusetts, Connecticut, and Rhode Island.
Foam Rubber Center	Furniture	10	New Jersey and Pennsylvania.
Nettleton Shops, Inc.	Shoes	45	All States.
Laundercenter Corp.	Drycleaning	13	Connecticut, Massachusetts, and New Jersey.
Johnny-on-the Spot	do.	15	Connecticut.
Geo. E. Kelth Co.	Shoes	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
Tanen Shoe Co.	do.	6	Connecticut and Massachusetts.
Pediforme Shoe Co., Inc.	do.	7	New Jersey.
I. Simon Co., Inc.	do.	27	New Jersey and Pennsylvania.
The Tash Shoe Co.	do.	6	Indiana and Ohio.
J & J Slater	do.	8	California, District of Columbia, Illinois, and New Jersey.
Stuart Brooks, Inc.	do.	11	New Jersey.
Wise Shoe Stores, Inc.	do.	17	Do.
Magikist Service Corp.	Drycleaning	10	Arizona, California, Florida, Illinois, Indiana, Massachusetts, Michigan, Ohio, Pennsylvania, Texas, and Wisconsin.
Morton's Shoe Stores, Inc.	Shoes	15	Massachusetts, Connecticut, Georgia, Louisiana, New Hampshire, Michigan, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Nunn-Bush Shoe Co.	Shoe store	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Morse Shoe Store Corp.	Shoes	38	Massachusetts and New Hampshire.
French, Shriner & Urner	do.	17	Massachusetts, California, Minnesota, Ohio, and Pennsylvania.
Allied Shoe Co.	do.	33	Massachusetts, Connecticut, Maine, Maryland, New Hampshire, Pennsylvania, New Jersey, and Rhode Island.
S. E. Nichols Co.	Variety	10	New Jersey.
Lyon & Healy, Inc. (musical merchandise)	Miscellaneous stores	11	California, Illinois, Indiana, and Ohio.
The Wurlitzer Co. (musical inst.)	Miscellaneous	6	Illinois, Michigan, Ohio, and Pennsylvania.
Ritz Camera Centers	do.	7	District of Columbia, Maryland, and Pennsylvania.
Unlon-Fern, Inc.	Furniture	12	Massachusetts, and Vermont.
Lerner Sleep Products	do.	30	New Jersey.
M. N. Landau Stores, Inc.	Variety	20	Connecticut, Indiana, Massachusetts, Michigan, New Hampshire, New Jersey, North Carolina, and Texas.
Ahelson's Inc.	Jewelry	14	New Jersey.
S. A. Meyer Co.	do.	15	Pennsylvania, Ohio, Maryland, and West Virginia.
Rudolph Bros. Inc.	do.	48	Illinois, Massachusetts, and New Jersey.
Tappin's Inc.	do.	18	New Jersey, and Pennsylvania.
M. H. Fishman Co. Inc.	Variety	47	Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Ohio, Pennsylvania, Vermont, and Virginia.
Charles Stores Co., Inc.	do.	32	Kentucky, North Carolina, Pennsylvania, Tennessee, and Virginia.
Fisher-Beer Co.	do.	10	New Jersey.
M. H. Lamson, Inc.	do.	17	Connecticut, and New Jersey.
J. C. Kelso Stores	do.	5	Pennsylvania.
Central Markets, Inc.	Food	20	Massachusetts.
The Mohican Stores	do.	14	Pennsylvania.
The Giant Markets	do.	11	Do.
F. C. Thomas, Inc.	do.	33	Do.
National Market Co.	do.	20	Do.
Quality Markets, Inc.	do.	42	Do.
Merit Farms, Inc.	do.	35	New Jersey.
Rockover Brothers, Inc.	Clothing and furnishings	25	Delaware, New Jersey, Pennsylvania, and Virginia.
Ward & Ward, Inc.	do.	17	New Jersey and Pennsylvania.
John Mullins & Sons, Inc.	Furniture	17	Florida, Mississippi, and South Carolina.
Welmar, Inc.	do.	5	Arizona, North Carolina, Oklahoma, and Pennsylvania.
Castro Convertible Corp.	do.	47	Connecticut, Florida, Maryland, Michigan, New Jersey, Pennsylvania, District of Columbia, and Rhode Island.
Smilow Thelie Corp.	do.	5	New Jersey.
Mallory, Inc.	do.	5	Do.
Sachs Quality Stores, Inc.	do.	10	Do.
W. & J. Sloane, Inc.	do.	11	California, Connecticut, District of Columbia, and New Jersey.
Two Guys From Harrison	Discount	17	Maryland, New Jersey, and Pennsylvania.
Masters, Inc.	do.	10	Florida, New Jersey, and Pennsylvania.
Arlan's Department Stores, Inc.	do.	11	Connecticut, Kentucky, Massachusetts, Michigan, and Ohio.
Max Dichter, Inc.	do.	5	Massachusetts, New Jersey, Ohio, and Vermont.
Honey Dew Food Stores, Inc.	Food	9	New Jersey and Connecticut.
Kings Supermarkets, Inc.	do.	12	New Jersey and Pennsylvania.
Camera Craft, Inc.	Miscellaneous	8	Connecticut.
Brentano's Inc. (Books)	do.	13	District of Columbia, Maryland, New Jersey, and Virginia.
Allen Carpet Shops, Inc.	do.	11	New Jersey.
Raphan Carpet Corp.	do.	15	Connecticut and New Jersey.
Churchill Custom H-Fidelity, Ltd.	do.	7	New Jersey.
Trader Horn Appliance Stores	do.	8	Do.
Kaufman Carpet Company, Inc.	do.	11	Do.
National Army Stores Corp.	do.	19	Vermont.
Tires Inc.	do.	8	New Jersey.
Gouhaud de Paris, Inc.	do.	28	California, Connecticut, Washington, D.C.; Florida, New Jersey, Pennsylvania and Canada.
Doughleday Book Shops	do.	32	Illinois, Maryland, and Massachusetts.
Devega Stores Corp.	do.	28	New Jersey.
Peper Bros, Inc.	do.	10	Do.
A dams Drug Co., Inc.	Drugs	20	New Hampshire and Rhode Island.
Sav-On Drugs, Inc.	Drugstore	7	New Jersey.
Mack Drug Co.	do.	15	New Jersey and Massachusetts.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

NORTH CAROLINA

Company	Category	Number of stores	Other States of operation
Adeline Apparel Shops, Inc.	Clothing and furnishings	49	New York, Ohio, Tennessee, Pennsylvania, Virginia, New Jersey, Arkansas, Illinois, and Indiana.
Good-Val Stores Corp.	do.	26	Florida, Georgia, Massachusetts, New York, New Hampshire, Pennsylvania, South Carolina, and Virginia.
Kenwin Shops, Inc.	do.	20	Alabama, Georgia, and South Carolina.
My Shop, Inc.	do.	41	Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
O. P. O. Clothes	do.	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Cranes-Mayos Clothes, Inc.	do.	40	Delaware, Georgia, Illinois, Indiana, New York, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
Felsway Shoe Corp.	Shoes	37	Delaware, District of Columbia, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, and South Carolina.
Eleanor Shops, Inc.	Clothing and furnishings	40	Alabama, Georgia, Mississippi, Pennsylvania, South Carolina, and Virginia.
Ellay Stores, Inc.	do.	43	Illinois, Indiana, Ohio, Pennsylvania, Texas, West Virginia, and New Jersey.
Montaldo's	do.	11	Arkansas, Colorado, Missouri, New Jersey, Ohio, Oklahoma, and Virginia.
Joy Stores, Inc.	do.	18	Indiana, Kentucky, New Jersey, Ohio, Pennsylvania, Virginia, West Virginia, and Wisconsin.
Joanly Shops, Inc.	do.	21	New York, Pennsylvania, and South Carolina.
National Bellas Hess Stores, Inc.	do.	45	Michigan, Minnesota, Missouri, South Carolina, and Puerto Rico.
M & W Martin Co., Inc.	do.	16	Georgia, Iowa, Kansas, Minnesota, and Montana.
Lewis Apparel Stores, Inc.	do.	35	Connecticut, Kansas, Massachusetts, Michigan, New York, Ohio, and Oklahoma.
Bomar Shoe Co.	Shoes	8	Georgia and South Carolina.
Morton's Shoe Stores, Inc.	do.	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Sullivan Hardware Co.	Hardware	6	South Carolina.
Maxwell Bros., Inc.	Furniture	34	Georgia and South Carolina.
Haverty Furniture Co.	do.	28	Alabama, Arkansas, Florida, Georgia, Louisiana, South Carolina, Tennessee, Texas, and Virginia.
C. H. Larkins Clothing Stores, Inc.	Clothing and furnishings	17	South Carolina.
Cato Stores, Inc.	do.	50	South Carolina and Virginia.
National Manufacturing & Stores Corp.	Furniture	40	Alabama, Georgia, South Carolina, Louisiana, Tennessee, and Texas.
Virginia Dare Stores Corp.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Wilbur-Rogers, Inc.	do.	38	Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Virginia.
H. B. Phillips, Inc.	Shoes	26	Florida and South Carolina.
Barr Bros., Inc.	Jewelry	17	Virginia.
W. M. Wall Jewelers	do.	5	Do.
Nunn-Bush Shoe Co.	Shoes	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
M. N. Landau Stores, Inc.	Variety	20	New York, Connecticut, Indiana, Massachusetts, Michigan, New Hampshire, Texas, and New Jersey.
Crest Stores Co.	do.	13	North Carolina, South Carolina, and Virginia.
P & N 5¢-10¢ Stores, Inc.	do.	5	Virginia.
Fine's Men's Shops, Inc.	Clothing and furnishings	7	Do.
Walmart, Inc.	Furniture	8	Arizona, New York, Pennsylvania, and Oklahoma.
Wood's 5¢-10¢ Stores, Inc.	Variety	19	South Carolina.
Mack's 5¢-10¢ Stores, Inc.	do.	31	Georgia, South Carolina, and Virginia.
Stovall's 5¢-10¢ Stores	do.	5	Georgia.
Sterchi Bros. Stores, Inc.	Furniture	44	Tennessee, Alabama, Florida, Georgia, Kentucky, and South Carolina.
Kimball's, Inc.	do.	25	South Carolina.
Munford Do-It-Yourself Stores, Inc.	Miscellaneous	43	Alabama, Florida, Georgia, South Carolina, Tennessee, and Virginia.
Charles Stores Co., Inc.	Variety	32	New York, Kentucky, Pennsylvania, Tennessee, and Virginia.
Piggly Wiggly Wholesale, Inc.	Food	48	South Carolina.
Lay & Co., Inc.	Variety	18	Georgia and Alabama.
W. V. Ramsey Co.	do.	5	South Carolina, Virginia, and Tennessee.
The E. I. Lewis Co.	do.	9	South Carolina.
Cassels United Stores, Inc.	do.	17	Georgia and South Carolina.
Bower's Stores	Discount stores	12	Georgia, Kentucky, and Tennessee.
Patterson Drug Co.	Drugstore	11	Virginia.
Hofheimer's, Inc.	Shoes	20	Do.
Olan Mills, Inc.	Miscellaneous	35	Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina, Tennessee, and Virginia.
Hale Drug Co.	Drugs	14	Alabama, Arkansas, Georgia, Mississippi, and Tennessee.
City Drug Co.	do.	5	Tennessee.
Silco Cut Price Stores, Inc.	do.	50	Delaware, Maryland, New Jersey, Pennsylvania, Virginia, and West Virginia.
Baxter Stores, Inc.	Clothing and furnishings	25	Pennsylvania, South Carolina, Tennessee, New Jersey, Alabama, Florida, Georgia, and New York.
Webster Clothes, Inc.	do.	19	District of Columbia, Indiana, Kentucky, Maryland, New Jersey, Ohio, Virginia, and West Virginia.
Advance Stores Co.	Auto supply	46	South Carolina, Tennessee, and Virginia.
Free Service Tire Stores, Inc.	do.	11	Tennessee.
Kenwin Shops	Clothing and furnishings	18	Alabama, Georgia, and South Carolina.

NORTH DAKOTA

Woodrow Stores, Inc.	Clothing and furnishings	15	Alabama, Arizona, Florida, Louisiana, and New York.
Nettleton Shops, Inc.	Shoes	45	All States.
Lindrud's 5¢-\$1 Stores	Variety	15	South Dakota and Minnesota.
Piggly Wiggly Northland Co.	Food	8	Minnesota.
Mathisen Tire Co.	Miscellaneous	7	Minnesota, Michigan, and Wisconsin.
Great Minneapolis Surplus Stores	Discount stores	6	Iowa and Minnesota.
F. T. Reynolds Co.	Food	8	Montana.
White Drug Co.	Drugstore	11	South Dakota.
Associated Drugs, Inc.	do.	8	Minnesota.
Onco Drug Co.	do.	30	Illinois, Indiana, Iowa, Minnesota, and Wisconsin.
Brown's Shoe Fit Co.	Shoes	40	Colorado, Iowa, Kansas, Missouri, and Nebraska.
Buttrey Stores, Inc.	Clothing and furnishings	23	Iowa, Minnesota, South Dakota, and Wisconsin.
American Shoes Co., Inc.	Shoes	29	Indiana, Kentucky, Missouri, and Tennessee.
Scheel's Hardware	Hardware	8	Minnesota and Montana.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

OHIO

Company	Category	Number of stores	Other States of operation
Adeine Apparel Shops, Inc.	Clothing and furnishings	49	Also operates in New York, Ohio, Tennessee, Pennsylvania, Virginia, New Jersey, Arkansas, Illinois, Indiana, and North Carolina.
Arlene Shops, Inc.	do	8	Also operates in New York, Pennsylvania, and West Virginia.
Puritan Federal Clothing Stores, Inc.	do	46	Also operates in Connecticut, Illinois, Indiana, New Hampshire, Maine, Massachusetts, Michigan, Pennsylvania, and Vermont.
Retail Jenny Shlps, Inc.	do	20	Also operates in Indiana, Pennsylvania, and West Virginia.
My Shop, Inc.	do	41	Also operates in Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
The Custom Shops	do	26	California, District of Columbia, Illinois, Maryland, Michigan, Minnesota, New Jersey, New York, and Pennsylvania.
King Clothing Co., Inc.	do	18	Indiana, Michigan, and Texas.
Best & Co., Inc.	do	19	Connecticut, District of Columbia, Massachusetts, Michigan, New Jersey, New York, Pennsylvania, and Virginia.
Beverly Shops	do	7	Kentucky and West Virginia.
Montaldo's	do	11	Arkansas, Colorado, Missouri, New Jersey, North Carolina, Oklahoma, and Virginia.
Ellay Stores, Inc.	do	43	Illinois, Indiana, North Carolina, Pennsylvania, Texas, West Virginia, and New Jersey.
Norstan Apparel Shop, Inc.	do	10	Pennsylvania.
Joy Stores, Inc.	do	18	Indiana, Kentucky, New Jersey, North Carolina, Pennsylvania, Virginia, West Virginia, and Wisconsin.
Collins Stores, Inc.	do	24	Kentucky, Pennsylvania, Tennessee and West Virginia.
Consolidated Retail Stores, Inc.	do	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Oklahoma, Pennsylvania, Tennessee, and Texas.
Hofstadter & Albert Millinery Corp.	do	7	District of Columbia, Maryland, Pennsylvania, and Virginia.
Bonwit Teller	do	8	Florida, Illinois, Massachusetts, and New York.
Jubille Shops, Inc.	do	15	New York, Indiana, Kansas, Maryland, New Jersey, Pennsylvania, Texas, and Virginia.
Felsway Shoe Corp.	Shoes	37	Delaware, District of Columbia, Kentucky, Maryland, New Jersey, New York, North Carolina, Pennsylvania, and South Carolina.
Millinery Stores	Clothing and furnishings	27	Connecticut, District of Columbia, Illinois, Indiana, Minnesota, Tennessee, and Texas.
Lewis Apparel Stores, Inc.	do	35	Connecticut, Kansas, Massachusetts, Michigan, New York, North Carolina, and Oklahoma.
Brooks Fashion Stores, Inc.	do	18	Illinois, New York, and Wisconsin.
Parkfield Shops, Inc.	do	10	Connecticut and Pennsylvania.
Orva Hosiery	do	8	Michigan.
Jean Frocks, Inc.	do	39	Pennsylvania.
David's Specialty Shops, Inc.	do	15	District of Columbia, New York, and Virginia.
Kitty Kelly Shoe Corp.	Shoes	39	Florida, Illinois, Kentucky, Maryland, Michigan, New Jersey, New York, and Pennsylvania.
Lockett Shoe Co., Inc.	do	7	Indiana and Kentucky.
Maling Shoes	do	31	Indiana, Illinois, Michigan, and Wisconsin.
Crown Self-Service Shoe Stores, Inc.	do	38	Do.
French, Shriner & Urner	do	17	California, Massachusetts, Minnesota, New York, and Pennsylvania.
Geo. E. Keith Co.	do	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
Carolina Lumber Co.	Hardware	6	Kentucky and West Virginia.
Scott Lumber Co.	do	9	West Virginia.
The Stambaugh-Thompson Co.	do	12	Pennsylvania.
Holthouse Furniture Co., Inc.	Furniture	10	Indiana.
Banner-Whitehill Corp.	do	7	Do.
L. Fish Furniture Co.	do	11	Indiana, Illinois, and Wisconsin.
Grinnell Brothers	do	29	Michigan and Ontario, Canada.
Eckerly Millinery	Clothing and furnishings	5	West Virginia.
E. P. Roe Stores	do	14	Illinois, Indiana, Iowa, Michigan, and Pennsylvania.
Nadler's, Inc.	do	5	Kentucky.
Mutual Clothing Co., Inc.	do	5	New York.
Virginia Dare Stores, Corp.	do	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Wormser Hat Stores, Inc.	do	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Oklahoma, Tennessee, and Texas.
Val-U-Dress Shops, Inc.	do	42	Illinois, Indiana, and Michigan.
Wilbur-Rogers, Inc.	do	38	Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Pennsylvania, and Virginia.
Hoosier Markets, Inc.	Food supply	10	Indiana.
E. G. Shinner & Co., Inc.	do	47	Illinois, Iowa, Michigan, Wisconsin, and Pennsylvania.
Nettleton Shops, Inc.	Shoes	45	All States.
Buckeye Shoe Co.	do	6	Michigan.
The Art Dry Cleaning Co.	Dry cleaning	10	Kentucky.
The Model Laundry & Dry Cleaning Co.	do	16	Kentucky and Indiana.
Gilbert Shoe Co.	Shoes	8	Indiana.
Cort Shoes, Inc.	do	32	Michigan.
Jack's Shoes, Inc.	do	11	Indiana.
The Krohngold Shoe Co.	do	20	Michigan and Illinois.
The Tash Shoe Co.	do	6	Indiana and New York.
Epko Shoes, Inc.	do	26	Indiana, Michigan, and New York.
Taggart Shoes, Inc.	do	10	Kentucky and West Virginia.
Magkist Service Corp.	Drycleaning	10	Arizona, California, Florida, Illinois, Indiana, Massachusetts, Michigan, New York, Pennsylvania, Texas, and Wisconsin.
Fame Laundries, Inc.	do	22	Indiana, Kentucky, and Pennsylvania.
Page Co., Inc.	Clothing and furnishings	9	California, Michigan, and Texas.
Scott's Stores	Variety	6	Indiana and Kentucky.
Hart Stores, Inc.	do	8	Do.
Nichols 5-Cent-\$1 Stores, Inc.	do	10	Pennsylvania.
Nunn-Bush Shoe Co.	Shoestore	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
French, Shriner & Urner	Shoes	17	Massachusetts, California, Minnesota, and Pennsylvania.
Lyon & Healy, Inc. (musical merchandise)	Miscellaneous stores	11	California, Illinois, Indiana, and New York.
The Wurlitzer Co. (musical instruments)	do	6	Illinois, Michigan, New York, and Pennsylvania.
Harmeyer's Paint & Wallpaper	do	11	Kentucky.
Rogers Toy Shops, Inc.	Miscellaneous	18	District of Columbia, Tennessee, Florida, Alabama, Maryland, Georgia, Pennsylvania, and Virginia.
Lewis Furniture Co.	Furniture	5	West Virginia.
Bloch Daneman Co.	do	10	Wisconsin, Maryland, Michigan, and Pennsylvania.
S. A. Meyer Co.	Jewelry	15	Pennsylvania, New York, Maryland, and West Virginia.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

OHIO—Continued

Company	Category	Number of stores	Other States of operation
The Barr Co.	Variety	5	Indiana.
M. H. Fishman Co., Inc.	do	47	New York, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Vermont, and Virginia.
Belmont 5¢-\$1 Stores.	do	6	Michigan and Indiana.
Haffner's 5¢-\$1 Stores, Inc.	do	40	Indiana, Illinois, and Michigan.
W. R. Thomas 5¢-\$1 Stores, Inc.	do	9	Indiana and Michigan.
McCord 5¢-\$1 Stores.	do	5	Indiana.
Paul's 5¢-\$1 Stores, Inc.	do	5	Do.
Big Bear Stores Co.	Food	31	West Virginia.
Equity Dairy Stores, Inc.	do	9	Indiana.
Evans Grocery Co.	do	13	West Virginia.
McAllister Dairy Farms, Inc.	do	30	Pennsylvania.
Century Food Markets Co.	do	40	Do.
Hart Stores, Inc.	Drugs	8	Kentucky and Indiana.
Pennshire Clothes, Inc.	Clothing and furnishings	18	Pennsylvania.
Fashion Hosiery Stores, Inc.	do	32	Pennsylvania and West Virginia.
Max Dichter, Inc.	Discount stores	5	Massachusetts, New Jersey, New York, and Vermont.
Barlo Co., Inc.	do	6	Kentucky.
Arlan's Department Stores, Inc.	do	11	Connecticut, Kentucky, Massachusetts, Michigan, and New York.
Hoge-Davis Drug Co.	Drugstores	6	West Virginia.
Miller Bros. Wallpaper Co.	Miscellaneous	6	Kentucky.
Majestic Paint Centers, Inc.	do	16	West Virginia.
Joe O. Frank Co.	do	16	Indiana.
Peck Drug Stores, Inc.	Drugstores	18	Michigan.
The Muir Drug Co.	do	28	Michigan, Wisconsin, and Indiana.
Milton F. Kreis Drug Stores	do	5	California.
Michaels & Mann, Inc.	Clothing and furnishings	10	Illinois, Indiana, Kentucky, and Michigan.
Jerrold's	do	10	Michigan and Wisconsin.
Abrahams Bros.	do	12	Illinois, Indiana, and Iowa.
The Printz Co., Inc.	do	8	New York and Pennsylvania.
My Maternity Shop, Inc.	do	45	Connecticut, New York, Pennsylvania, West Virginia, and Ontario and Quebec, Canada.
Jack Stevens Clothes	do	7	Maryland, Massachusetts, Michigan, Minnesota.
Tall Girl's Shops	do	6	Illinois, Michigan, and New York.
United Shirt Distributors, Inc.	do	39	Florida, Michigan, and New York.
Winkelman Bros., Inc.	do	42	Michigan.
Wehster Clothes, Inc.	do	19	District of Columbia, Indiana, Kentucky, Maryland, New Jersey, North Carolina, Virginia, and West Virginia.
Van's Hosiery Stores, Inc.	do	23	Massachusetts and Pennsylvania.
Stevens Candy Kitchens, Inc.	Candy stores	35	Illinois and Indiana.
Karnes Bake Shops, Inc.	Bakery stores	12	Pennsylvania.
Standard Auto & Radio Supply Co.	Auto supply	13	Pennsylvania and West Virginia.
H. & W. Auto Accessories Co.	do	11	Michigan.
Flemming & Flower	do	5	West Virginia.
The Ahel Corp.	do	36	District of Columbia, Iowa, Indiana, Maryland, Michigan, Pennsylvania, Texas, and West Virginia.
Leo's Inc.	do	18	Kentucky.
Equitable Millinery	Clothing and furnishings	25	Illinois, Indiana, Iowa, Kentucky, Michigan, and Wisconsin.
Checker Stores	Auto supply	15	Kentucky.

OKLAHOMA

Tanne-Arden, Inc.	Clothing	36	Arizona, California, Colorado, Kentucky, Massachusetts, Nevada, Oregon, Texas, Utah, Washington, New York, and Michigan.
Montaldo's	Clothing and furnishings	11	Arkansas, Colorado, Missouri, New Jersey, North Carolina, Ohio, and Virginia.
Consolidated Retail Stores, Inc.	do	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Pennsylvania, Tennessee, and Texas.
Jarold Shops, Inc.	do	19	Nebraska, Kansas, South Dakota.
Lewis Apparel Stores, Inc.	do	35	Connecticut, Kansas, Massachusetts, Michigan, New York, North Carolina, and Ohio.
Midland Shoe Co.	Shoes	38	Alabama, Arkansas, Indiana, Iowa, Louisiana, Michigan, Missouri, Texas, Wisconsin, and Mississippi.
Geo. E. Keith Co.	do	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Pennsylvania, Tennessee, Texas, and Utah.
Wm. Cameron & Co.	Hardware	35	Texas.
Carey Lumher Co.	do	12	Do.
The Homes Lumher & Supply Co.	do	17	Kansas.
Virginia Dare Stores, Corp.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Weiss Bros. Stores, Inc.	do	19	Alabama, Georgia, Indiana, Louisiana, Mississippi, Tennessee, and Texas.
Peyton-Marcus Co.	do	14	Kansas, Louisiana, and Texas.
Foodtown Supermarkets, Inc.	Food supply	25	Kansas and Missouri.
Nettleton Shops, Inc.	Shoes	45	All States.
Family Shoe Stores	do	22	Arkansas and Texas.
Welman, Inc.	Furniture	8	Arizona, New York, North Carolina, and Pennsylvania.
S & Q Clothiers	Clothing and furnishings	9	Arkansas and Texas.
Bentley's, Inc.	do	6	Texas.
Nunn-Bush Shoe Co.	Shoe store	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Newton Jewelry Co.	Jewelry	8	Missouri, Arkansas, and Iowa.
Puckett's Food Stores	Food	11	Texas.
Duke & Ayres, Inc.	Variety	48	Do.
M. E. Moses Co., Inc.	do	32	Do.
Eastland 5-Cent-\$1 Stores	do	9	Do.
Fred Wolfermann, Inc.	Food	9	Missouri.
B. & J. Drug Co.	Drugstore	5	Texas, and New Mexico.
The Matlock Stores	Variety	6	California, Colorado, and Kansas.
Skaggs Drug Center, Inc.	Drugstore	28	Arizona, Colorado, Idaho, Louisiana, Montana, Nevada, New Mexico, Texas, and Utah.
Parker's Food Stores, Inc.	Food	14	Texas.
Barrett Grocery Co.	do	9	Do.
Longwear Paint & Varnish Works	Miscellaneous	7	Missouri, Oklahoma, and Texas.
Carpenter City, Inc.	do	6	Arkansas.
Katz Drug Co.	Drugstore	42	Iowa, Kansas, Missouri, and Tennessee.
Crowe Drug Co.	do	44	Kansas and Missouri.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

OKLAHOMA—Continued

Company	Category	Number of stores	Other States of operation
Harrison Shoes, Inc.	Shoes	10	Kansas.
Volume Shoe Distributors	do.	8	Kansas and Texas.
Hohart Shoe Co.	do.	9	Kansas.
United Shoe Stores Co.	do.	44	Louisiana, Arkansas, Georgia, Texas, Mississippi, Tennessee, and others.
Sweetbriar Shops, Inc.	Clothing and furnishings	48	Arizona, Colorado, Idaho, Montana, Kansas, Nebraska, New Mexico, South Dakota, Texas, Utah, and Wyoming.
Beard & Gabelman, Inc.	do.	36	Iowa, Missouri, Kansas, Nebraska, South Dakota, and Texas.
Rothschild's	do.	7	Missouri.
Markson Bros, Inc.	do.	41	California, Arizona, Colorado, Illinois, Kansas, Maine, Massachusetts, New York, and Texas.
Babcock Bros., Auto Supply Co.	Auto supply	17	Texas.
Miami Sales Co.	do.	11	Kansas and Missouri.
Becnar's	Clothing and furnishings	19	Illinois, Indiana, Iowa, and Texas.
Southern Supply, Inc.	Auto supply	6	Arkansas.
Wormser Hat Stores, Inc.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Tennessee, and Texas.

OREGON

Tanne-Arden, Inc.	Clothing	36	Arizona, California, Colorado, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Texas, Utah, Washington, and New York.
National Shoe Co., Ltd.	Shoe	32	Arizona, California, and Nevada.
Roe Bros. Stores, Inc.	do.	46	Arizona, California, Colorado, Idaho, New Mexico, Nevada, Texas, Washington, and Wyoming.
Home Lumber & Coal Co.	Hardware	9	Idaho.
Zukor's	Clothing and furnishings	16	New York, California, and Washington.
Jacqueline Shops	do.	6	Washington.
Herman's Men's Stores	do.	9	Do.
M. H. King Co.	Variety	20	Idaho, Montana, and Utah.
Nettleton Shops, Inc.	Shoes	45	All States.
Wallpapers, Inc.	Miscellaneous	5	Washington and California.
Sherman Clay & Co.	do.	23	Do.
Rogers Jewelry Co., Inc.	Jewelry	8	California and Nevada.
Weisfeld's, Inc.	do.	32	California, Idaho, and Washington.
Big "C" Stores	Food	20	Washington.
Oregon Piggly Wiggly Co.	do.	32	Do.
Sigman Food Stores	do.	15	Washington and Idaho.
Pay N'Save Drugs, Inc.	Drugstore	12	Washington.
Zapp's Drug Stores	do.	9	Do.
Nordstrom's, Inc.	Shoe store	18	California and Washington.
Preservative Paint Co.	Miscellaneous	8	Washington.
The Owl Drug Co.	Drugstore	31	California.
Cent-Wise Drug Stores	do.	5	Washington.
Pay Less Stores	Drugs	18	California, Idaho, and Washington.
Conrad's, Inc.	Clothing and furnishings	11	Colorado, Idaho, Montana, Utah, Washington, and Wyoming.
Motherhood Maternity Shops, Inc.	do.	21	California.
House of Nine, Inc.	do.	34	California, Arizona, Texas, Colorado, Michigan, Utah, Missouri, and Pennsylvania.
Hartfield Stores, Inc.	do.	45	California, Arizona, New Jersey, New York, Washington, and Hawaii.
Morrow's Nut House Corp.	Candy stores	5	California and Utah.
M. Alexander, Inc.	Clothing and furnishings	8	Idaho.

PENNSYLVANIA

Arlene Shops, Inc.	do.	8	New York, Ohio, and West Virginia.
Adeline Apparel Shops, Inc.	do.	49	New York, Ohio, Virginia, New Jersey, Arkansas, Illinois, Indiana, North Carolina, and Tennessee.
Gramont Co., Inc.	do.	9	California, Illinois, Maryland, Michigan, Missouri, New Jersey, and New York.
Retail Jenny Shops, Inc.	do.	20	Indiana, Ohio, and West Virginia.
Puritan Federal Clothing Stores, Inc.	do.	46	Connecticut, Illinois, Indiana, New Hampshire, Maine, Massachusetts, Michigan, and Vermont.
Polly Perrey Stores, Inc.	do.	20	Connecticut.
Good-Val Stores Corp.	do.	26	Florida, Georgia, Massachusetts, New Hampshire, New York, North Carolina, South Carolina, and Virginia.
Label Youth Centers	do.	40	Massachusetts, New Jersey, and New York.
My Shop, Inc.	do.	41	Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, North Carolina, Ohio, South Carolina, Pennsylvania, Tennessee, Virginia, and Wisconsin.
Cranes-Mayos Clothes, Inc.	do.	40	Delaware, Georgia, Illinois, Indiana, New York, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.
The Custom Shops	do.	26	California, District of Columbia, Illinois, Maryland, Michigan, Minnesota, New Jersey, New York, and Ohio.
O.P.O. Clothes	do.	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Tall Apparel Shops	Clothing	7	District of Columbia, Maryland, Massachusetts, Michigan, Minnesota, and New York.
Roger Kent, Inc.	do.	13	Connecticut, Massachusetts, and New York.
Best & Co., Inc.	Clothing and furnishings	19	Connecticut, District of Columbia, Massachusetts, Michigan, New Jersey, New York, Ohio, and Virginia.
Ellay Stores, Inc.	do.	43	Illinois, Indiana, North Carolina, Ohio, Texas, West Virginia, and New Jersey.
Eleanor Shops, Inc.	do.	40	Alabama, Georgia, Mississippi, North Carolina, South Carolina, and Virginia.
Rio Frocks, Inc.	Clothing	10	New Jersey, and New York.
Ripley Clothes	do.	41	Connecticut, District of Columbia, New York, Massachusetts, Missouri, New Jersey, and Rhode Island.
Lorrains Smart Shops, Inc.	Clothing and furnishings	16	Massachusetts, New Jersey, and New York.
Parkfield Shops, Inc.	do.	10	Connecticut and Ohio.
Jean Frocks, Inc.	do.	39	Ohio.
Consolidated Retail Stores, Inc.	do.	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Tennessee, and Texas.
Collins Stores, Inc.	do.	24	Kentucky, Ohio, Tennessee, and West Virginia.
Joy Stores, Inc.	do.	18	Indiana, Kentucky, New Jersey, North Carolina, Ohio, Virginia, West Virginia, and Wisconsin.
Joanly Shops, Inc.	do.	21	New York, North Carolina, and South Carolina.
Norstan Apparel Shop, Inc.	do.	10	Ohio.
Broadstreet's Inc.	do.	12	Illinois, New Jersey, New York, and West Virginia.
Hofstadter & Albert Millinery Corp.	do.	7	Washington, D.C., Maryland, Ohio, and Virginia.
Jubilee Shops, Inc.	do.	15	New York, Indiana, Kansas, Maryland, New Jersey, Ohio, Texas, and Virginia.
Felsway Shoe Corp.	Shoes	37	Delaware, District of Columbia, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, and South Carolina.
The Ormond Shops, Inc.	Clothing and furnishings	34	Maryland, New Jersey, and West Virginia.
Dundee Smart Clothes, Inc.	do.	15	California, New York, Texas, Utah, and Washington.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

PENNSYLVANIA—Continued

Company	Category	Number of stores	Other States of operation
Lloyd & Haig Shoe Corp.	Shoes	7	Illinois and New York.
Morton's Shoe Stores, Inc.	do	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Rhode Island, Texas, Vermont, and Virginia.
French, Shriner & Urner	do	17	California, Massachusetts, Minnesota, New York, and Ohio.
Geo. E. Keith Co.	do	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Tennessee, Texas, and Utah.
I. Miller Salons	do	14	District of Columbia, Florida, Illinois, Maryland, New Jersey, and New York.
Kitty Kelly Shoe Corp.	do	39	Florida, Illinois, Kentucky, Maryland, Michigan, New Jersey, New York, and Ohio.
The Stambaugh-Thompson Co.	Hardware	12	Ohio.
Whipple Bros., Inc.	do	7	New York.
Virginia Dare Stores Corp.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Wilbur-Rogers, Inc.	do	38	Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, and Virginia.
Williams Retail Stores, Inc.	do	7	Delaware, New Jersey, and New York.
E. P. Roe Stores	do	14	Illinois, Indiana, Iowa, Michigan, and Ohio.
Buehler Markets	Food supply	20	Illinois, Georgia, Iowa, Massachusetts, Missouri, Nebraska, and Tennessee.
E. G. Shinner & Co., Inc.	do	47	Illinois, Iowa, Michigan, Ohio, and Wisconsin.
Thrifty Shoe Stores, Inc.	Shoes	24	Maryland and New York.
Haines Shoe Co., Inc.	do	24	Maryland.
Alfred H. Cohen & Son	do	6	New Jersey and Delaware.
Glick Bros., Inc.	do	12	Maryland.
Brown's Boot Shops, Inc.	do	24	New York.
I. Simon Co., Inc.	do	27	New Jersey and New York.
National Cleaning Enterprises, Inc.	Drycleaning	33	New Jersey, Massachusetts, and Rhode Island.
Nettleton Shops, Inc.	Shoes	45	Also operates in all States.
Foam Rubber Center	Furniture	10	New York and New Jersey.
J. B. Van Seiver Co.	do	7	Delaware and New Jersey.
Magikist Service Corp.	Drycleaning	10	Arizona, California, Florida, Illinois, Indiana, Massachusetts, Michigan, New York, Ohio, Texas, and Wisconsin.
Fame Laundries, Inc.	do	22	Indiana, Kentucky, and Ohio.
Littman's Jewelers Stores	Jewelry	9	New Jersey.
Tappin's, Inc.	do	18	New Jersey and New York.
Jay Roy Co., Inc.	do	25	Maryland and West Virginia.
S. A. Meyer Co.	do	15	New York, Ohio, Maryland, and West Virginia.
Ray's Jewelry Stores	do	5	New Jersey.
The Wurlitzer Co.	Miscellaneous stores (musical instruments)	6	Illinois, Michigan, New York, and Ohio.
Sunny Surplus Agency	Miscellaneous stores	14	Maryland.
Rogers Toy Shops, Inc.	Miscellaneous	18	District of Columbia, Tennessee, Ohio, Florida, Alabama, Maryland, Georgia, and Virginia.
Ritz Camera Centers	do	7	District of Columbia, New York, and Maryland.
Welman, Inc.	Furniture	8	Arizona, New York, North Carolina, and Oklahoma.
Castro Convertible Corp.	do	47	Connecticut, Florida, Maryland, Michigan, New Jersey, New York, Pennsylvania, District of Columbia, and Rhode Island.
Liebman Furniture Co., Inc.	do	8	Delaware.
Nichols 5-Cent-\$1 Stores, Inc.	Variety	10	Ohio.
Bloch Daneman Co.	Furniture	10	Wisconsin, Maryland, Michigan, and Ohio.
Waltersdorf Furniture Co., Inc.	do	12	Maryland.
Super Shoe Stores	Shoes	14	Maryland and West Virginia.
Allied Shoe Co.	do	33	Massachusetts, Connecticut, Maine, Maryland, New Hampshire, New York, New Jersey, and Rhode Island.
Charles Stores Co., Inc.	Variety	32	New York, Kentucky, North Carolina, Tennessee, and Virginia.
Polan's 5-Cent-\$1 Stores	do	13	Delaware, District of Columbia, Florida, and Maryland.
M. H. Fishman Co., Inc.	do	47	New York, Delaware, Maine, New Hampshire, Massachusetts, New Jersey, Ohio, Vermont, and Virginia.
D. R. Pruitt Stores	do	5	New Jersey.
J. C. Kelso Stores	do	5	New York.
National Market Co.	Food	20	Do.
Century Food Markets Co.	do	40	Ohio.
F. C. Thomas, Inc.	do	33	New York.
The Mohican Stores	do	14	Do.
Quality Markets, Inc.	do	42	Do.
Penn Beef Co.	do	11	New Jersey.
Discount Food City	do	5	Virginia.
McAllister Dairy Farms, Inc.	do	30	Ohio.
The Giant Markets	do	11	New York.
Morris Allon & Co.	Clothing and furnishings	18	West Virginia.
Penshire Clothes, Inc.	do	18	Ohio.
Ward & Ward, Inc.	do	17	New Jersey and New York.
Lana Lobell, Inc.	do	8	Maryland.
Rockover Bros., Inc.	do	25	Delaware, New Jersey, New York, and Virginia.
Ritter's Millinery & Sportswear	do	15	New Jersey.
Fashion Hosiery Stores, Inc.	do	32	West Virginia and Ohio.
Adams Clothes, Inc.	do	16	Delaware and New Jersey.
Daniel Renzin Apparel	do	7	New Jersey.
Famous Maid Shops	do	24	Do.
Golden Dawn Hosiery Shops	do	10	Do.
Phillipshurg Grocery Co.	Food	9	Do.
Kings Supermarkets, Inc.	do	12	New Jersey and New York.
B. J. Hoy 5 & 10-Cent (Stores, Inc.	Variety	10	Delaware.
Zayre Corp.	Discount	14	Maine, Massachusetts, Pennsylvania, and Tennessee.
Gem, Inc.	do	7	Colorado, Hawaii, Kansas, Missouri, and Minnesota.
Miracle Marts	do	7	Indiana, Michigan, Rhode Island, and Virginia.
Two Guys From Harrison	do	17	Maryland, New Jersey, and New York.
Masters, Inc.	do	10	Florida, New Jersey, and New York.
Tower Marts, Inc.	do	12	Connecticut, District of Columbia, Maryland, Massachusetts, and New Jersey.
Bargain City U.S.A.	do	13	New Jersey and Virginia.
Atlantle Appliance Co., Inc.	Miscellaneous	12	New Jersey.
Huntsherrys, Inc.	Shoe	5	Virginia and Maryland.
Goubaud de Paris, Inc.	Miscellaneous	28	California, Connecticut, District of Columbia, Florida, New Jersey, New York, and Canada.
Pete Moore Appliance Center	do	10	District of Columbia, Kentucky, Tennessee, and Virginia.
Finnaren & Haley, Inc.	do	11	New Jersey.
M & H Sporting Goods Co.	do	7	Do.
Samuel Schultz & Co.	do	7	Do.
Allied Hobbies	do	8	Do.
Amber Tile Discount Houses	do	5	Do.
Bon Ton Wallpaper Co., Inc.	do	7	Delaware.
M. Buten & Sons	do	19	Delaware and New Jersey.
Cutler's Paint Stores	do	11	New Jersey.
Sileo Out Price Stores, Inc.	Drugs	50	Delaware, Maryland, New Jersey, North Carolina, Virginia, and West Virginia.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

PENNSYLVANIA—Continued

Company	Category	Number of stores	Other States of operation
Baxter Stores, Inc.	Clothing and furnishings	25	South Carolina, Tennessee, New Jersey, Alabama, Florida, Georgia, New York, and North Carolina.
Adams Management Corp.	do	12	Massachusetts, Minnesota, New Jersey, New York, Rhode Island, and Texas.
The Printz Co., Inc.	do	8	New York and Ohio.
My Maternity Shop, Inc.	do	45	Connecticut, New York, Ohio, West Virginia, Ontario and Quebec, Canada.
Shapiro & Hersch	do	17	New York.
Sa-Lee Shops, Inc.	do	5	New Jersey and Maryland.
Jaunty Dress Shops, Inc.	do	12	New Jersey and Georgia.
Van's Hosiery Stores, Inc.	do	23	Massachusetts and Ohio.
The Fintex Corp.	do	20	Michigan.
House of Nine, Inc.	do	34	California, Arizona, Texas, Colorado, Michigan, Utah, Missouri, and Oregon.
Shellenberger's, Inc.	Candy stores	19	New Jersey.
Karnes Bake Shops, Inc.	Bakery stores	12	Ohio.
Hollander's Home & Auto Supplies, Inc.	Auto supply	9	Maryland.
Standard Auto & Radio Supply Co.	do	13	Ohio and West Virginia.
Rose Auto Supply Co.	do	17	New Jersey.
Penn-Jersey Auto Stores, Inc.	do	27	Delaware, District of Columbia, and New Jersey.
Best Auto Supply, Inc.	do	6	Delaware.
Miller's Auto Supplies, Inc.	do	15	Maryland and West Virginia.
Joc, The Motorists' Friend, Inc.	do	25	Maryland, Virginia, and West Virginia.
Gatling's Auto Stores	do	7	West Virginia.
The Abel Corp.	do	36	District of Columbia, Iowa, Indiana, Maryland, Ohio, Michigan, Texas, and West Virginia.
Tire Mart Stores Corp.	do	27	California, New Jersey, New York, and Illinois.

PUERTO RICO

Benhil Shirt Shops, Inc.	Clothing and furnishings	24	Florida and New York.
National Bellas Hess Stores, Inc.	do	45	Michigan, Minnesota, Missouri, North Carolina, and South Carolina.

RHODE ISLAND

Albert's Hosiery Shops	Clothing and furnishings	10	New York.
Ripley Clothes	Clothing	41	Connecticut, District of Columbia, Massachusetts, Missouri, New Jersey, New York, and Pennsylvania.
P & Q Shops, Inc.	Clothing and furnishings	9	Connecticut, Massachusetts, and New Hampshire.
Morton's Shoe Stores, Inc.	Shoes	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Texas, Vermont, and Virginia.
Shelbro, Inc.	do	5	Connecticut, New York, and Virginia.
Diamond National Corporation	Hardware	26	Connecticut, Maine, Massachusetts, New Hampshire, Vermont.
L. Grossman Sons, Inc.	do	25	Maine, Massachusetts, and New Hampshire.
Virginia Dare Stores, Corp.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Kay's-Newport, Inc.	Shoes	21	Massachusetts, New York, and Connecticut.
National Cleaning Enterprises, Inc.	Drycleaning	33	Pennsylvania, New Jersey, and Massachusetts.
Bush & Co., Inc.	do	22	Massachusetts.
Nettleton Shops, Inc.	Shoes	45	All.
Allied Shoe Co.	do	33	Massachusetts, Connecticut, Maine, Maryland, New Hampshire, New York, New Jersey, and Pennsylvania.
Nunn-Bush Shoe Co.	do	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Mortou's Shoe Stores, Inc.	do	15	Massachusetts, Connecticut, Delaware, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Texas, Vermont, and Virginia.
Cumberland Farms	Food	17	Massachusetts.
Great Scott Food Markets, Inc.	do	21	Do.
Alma's, Inc.	do	21	Do.
Castro Convertible Corp.	Furniture	47	Connecticut, Florida, Maryland, Michigan, New Jersey, New York, Pennsylvania, and District of Columbia.
Cherry & Webb Co.	Clothing and furnishings	6	Massachusetts.
Miracle Marts	Discount stores	7	Indiana, Michigan, Pennsylvania, and Virginia.
Star Market Co.	Food	19	Massachusetts.
Fryer's Cigar Co.	Miscellaneous	9	Do.
Adams Drug Co., Inc.	Drugs	20	New York and New Hampshire.
Adams Management Corp.	Clothing and furnishings	12	Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, and Texas.
Kennedy's, Inc.	do	16	Connecticut, Maine, Massachusetts, and New Hampshire.
Stork Time, Inc.	do	7	Connecticut and Rhode Island.
The Primrose Shops	do	6	Massachusetts.
Benny's, Inc.	Auto supply	21	Massachusetts and Connecticut.
Thorpe Automotive Co.	do	6	Massachusetts.
Kaufman & Chernick, Inc.	do	23	Do.

SOUTH CAROLINA

Baxter Stores, Inc.	Clothing and furnishings	25	Tennessee, New Jersey, Alabama, Florida, Georgia, New York, North Carolina, and Pennsylvania.
Good-Val Stores Corp.	do	26	Florida, Georgia, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, and Virginia.
Kenwin Shops, Inc.	do	20	Alabama, Georgia, and North Carolina.
My Shop, Inc.	do	41	Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and Wisconsin.
Cranes-Mayos Clothes, Inc.	do	40	Delaware, Georgia, Illinois, Indiana, New York, North Carolina, Pennsylvania, Tennessee, Virginia, and West Virginia.
O.P.O. Clothes	do	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, Tennessee, Texas, Virginia, and West Virginia.
Felsway Shoe Corp.	Shoes	37	Delaware, District of Columbia, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, and Pennsylvania.
Smart & Thrifty Dresses, Inc.	Clothing	33	Alabama, Florida, Louisiana, Texas, and Virginia.
Sumner Stores Corp.	do	33	Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, Texas, Tennessee, Virginia, and New York.
Eleanor Shops, Inc.	Clothing and furnishings	40	Alabama, Georgia, Mississippi, North Carolina, Pennsylvania, and Virginia.
Joanly Shops, Inc.	do	21	New York, North Carolina, and Pennsylvania.
National Bellas Hess Stores, Inc.	do	45	Michigan, Minnesota, Missouri, North Carolina, and Puerto Rico.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

SOUTH CAROLINA—Continued

Company	Category	Number of stores	Other States of operation
Bomar Shoe Co.	Shoe	8	Georgia and North Carolina.
Sullivan Hardware Co.	Hardware	6	North Carolina.
Virginia Dare Stores Corp.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, Wisconsin.
National Manufacture & Stores Corp.	Furniture	40	Alabama, Georgia, North Carolina, Louisiana, Tennessee, and Texas.
Cato Stores, Inc.	Clothing and furnishings	50	North Carolina and Virginia.
Haverty Furniture Co.	Furniture	28	Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, Tennessee, Texas, and Virginia.
Maxwell Bros., Inc.	do	34	Georgia and North Carolina.
H. B. Phillips, Inc.	Shoes	26	Florida and North Carolina.
Nettleton Shops, Inc.	do	45	All States.
C. H. Larkins Clothing Stores, Inc.	Clothing and furnishings	17	North Carolina.
Mather Bros. Stores	Furniture	25	Georgia and Florida.
Sterehi Bros. Stores, Inc.	do	44	Tennessee, Alabama, Florida, Georgia, Kentucky, and North Carolina.
Nunn-Bush Shoe Co.	Shoe store	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.
Crest Stores Co.	Variety	13	North Carolina, and Virginia.
Wood's 5¢ & 10¢ Stores, Inc.	do	19	North Carolina.
Mack's 5¢-10¢-25¢ Stores, Inc.	do	31	Georgia, North Carolina, and Virginia.
Kimbrell's Inc.	Furniture	25	North Carolina.
Geyerman's, Inc.	Clothing and furnishings	5	Minnesota, and South Dakota.
John Mullins & Sons, Inc.	Furniture	17	New York, Florida, and Mississippi.
Munford Do-It-Yourself Stores, Inc.	Miscellaneous stores	43	Alabama, Florida, Georgia, North Carolina, Tennessee, and Virginia.
United 5¢-10¢ Stores, Inc.	Variety	27	Georgia.
The E. I. Lewis Co.	do	9	North Carolina.
Harper's 5-10-Cent Stores	do	12	Georgia.
Cassels United Stores, Inc.	do	17	Georgia and North Carolina.
W. V. Ramsey Co.	do	5	North Carolina, Virginia, and Tennessee.
Wholesale Merchandise Co.	do	31	Tennessee.
Piggly Wiggly Wholesale, Inc.	Food	48	North Carolina.
The National Hotel Co.	Drugstore	14	Alabama, Indiana, Louisiana, Nebraska, Texas, and Virginia.
Olan Mills, Inc.	Miscellaneous	35	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, and Virginia.
John Baldwin, Inc.	Clothing and furnishings	5	Florida.
Advance Stores Co.	Auto supply	46	North Carolina, Tennessee, and Virginia.
Kenwin Shops	Clothing and furnishings	18	Alabama, Georgia, and North Carolina.

SOUTH DAKOTA

Linpark Clothing Corp.	Clothing and furnishings	12	Iowa, Minnesota, Nebraska, New York, and Wisconsin.
Jarold Shops, Inc.	do	19	Nebraska, Kansas, and Oklahoma.
Biernbaum & Son	Auto supply	8	Wyoming.
Caldwells' Shoes, Inc.	Shoes	7	Kansas and Missouri.
L. Goldman Shoe Co.	do	5	Colorado, Nebraska, and Wyoming.
Tradehome Shoe Stores, Inc.	do	20	Iowa, Minnesota, and Wisconsin.
Rivin Bros. Stores	Food supply	7	Iowa and Minnesota.
National 5¢-1¢ Stores	Variety	12	Minnesota and Iowa.
Geyerman's, Inc.	Clothing and furnishings	5	Minnesota and South Carolina.
Lindrud's 5¢-1¢ Stores	Variety	15	North Dakota and Minnesota.
Randall Stores, Inc.	Food	8	Iowa.
White Drug Co.	Drugstore	11	North Dakota.
Nettleton Shops, Inc.	Shoes	45	All States.
Sunshine Food Markets	Food	11	Iowa.
Buttrey Stores, Inc.	Clothing and furnishing	23	Iowa, Minnesota, North Dakota, and Wisconsin.
Sweetbriar Shops, Inc.	do	48	Arizona, Colorado, Idaho, Montana, Kansas, Nebraska, New Mexico, Oklahoma, Texas, Utah, and Wyoming.
Beard & Gabelman, Inc.	do	36	Iowa, Missouri, Kansas, Nebraska, Oklahoma, and Texas.

TENNESSEE

Adeline Apparel Shops, Inc.	Clothing and furnishings	49	New York, Ohio, Pennsylvania, Virginia, New Jersey, Arkansas, Illinois, Indiana and North Carolina.
Baxter Stores, Inc.	do	25	New Jersey, Alabama, Florida, Georgia, New York, North Carolina, Pennsylvania, and South Carolina.
My Shop, Inc.	do	41	Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, and Wisconsin.
O.P.O. Clothes	do	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Texas, Virginia, and West Virginia.
Craues-Mayos Clothes, Inc.	do	40	Georgia, Delaware, Illinois, Indiana, New York, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia.
Sumner Stores Corp.	Clothing	33	Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, South Carolina, Texas, Virginia, and New York.
Collins Stores, Inc.	Clothing and furnishings	24	Kentucky, Ohio, Pennsylvania, and West Virginia.
Consolidated Retail Stores, Inc.	do	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, and Texas.
Krasner Bros., Inc.	do	26	Kentucky, Maryland, Missouri, and West Virginia.
Lady Oris Hosiery Shops	do	11	Illinois, Kentucky, Louisiana, New York, and Texas.
Millinery Stores	do	27	Connecticut, District of Columbia, Illinois, Indiana, Minnesota, Ohio, and Texas.
American Shoe Co., Inc.	Shoes	29	Indiana, Kentucky, Missouri, and North Dakota.
Geo. E. Keith Co.	do	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Texas, and Utah.
Haverty Furniture Co.	Furniture	28	Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, South Carolina, Texas, and Virginia.
Weiss Bros. Stores, Inc.	Clothing and furnishings	19	Alabama, Georgia, Indiana, Louisiana, Mississippi, Oklahoma, and Texas.
Wormser Hat Stores, Inc.	do	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Missouri, Ohio, Oklahoma, and Texas.
National Manufacture & Stores Corp.	Furniture	40	Alabama, Georgia, North Carolina, Louisiana, South Carolina, and Texas.
Virginia Dare Stores Corp.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, and Wisconsin.
B. G. Wholesale, Inc.	Food supply	23	Kentucky.
Buehler Markets	do	20	Illinois, Georgia, Iowa, Massachusetts, Missouri, Nebraska, and Pennsylvania.
Nettleton Shops, Inc.	Shoes	45	All States.
Family Booterie	do	8	Georgia.
Big "B" One Hour Cleaners	Drycleaning	15	Florida, Illinois, Iowa, Kentucky, Missouri, and Virginia.
Perel & Lowenstein	Jewelry	7	Arkansas and Kentucky.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

TENNESSEE—Continued

Company	Category	Number of stores	Other States of operation
Nunn-Bush Shoe Co.	Shoestore	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Texas, Virginia, West Virginia, and Wisconsin.
Darwin's	Clothing and furnishings	5	Alabama.
The Nettle Lee Shops	do	7	Virginia.
Sterchi Bros. Stores, Inc.	Furniture	44	Alabama, Florida, Georgia, Kentucky, North Carolina, and South Carolina.
Hecht's	Clothing and furnishings	6	Alabama.
Rogers Toy Shops, Inc.	Miscellaneous	18	Washington, District of Columbia, Ohio, Florida, Alabama, Maryland, Georgia, Pennsylvania, and Virginia.
Forsyth Fabrics, Inc.	do	9	Alabama, Georgia, Illinois, Iowa, Kentucky, and Louisiana.
Munford Do-It-Yourself Stores, Inc.	do	43	Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia.
Charles Stores Co., Inc.	Variety	32	New York, Kentucky, North Carolina, Pennsylvania, and Virginia.
U-Tote-Em Grocery Co.	Food	11	Kentucky.
Red Food Stores, Inc.	do	15	Georgia.
The Home Stores, Inc.	do	27	Do.
Economy 5-Cent-\$1 Stores	Variety	6	Do.
Redford Stores, Inc.	do	26	Georgia and Alabama.
U.S. 5¢-10¢ Stores	do	22	Georgia and Alabama.
Lay & Co., Inc.	do	18	North Carolina, Georgia, and Alabama.
Wholesale Merchandise Co.	do	31	South Carolina.
Kuhn Bros. Co.	do	43	Alabama, Kentucky, and Mississippi.
W. V. Ramsey Co.	do	5	North Carolina, South Carolina, and Virginia.
Barnett-Levey Co.	do	14	Mississippi and Arkansas.
W. L. Bentley's 5¢-\$1 Stores	do	10	Kentucky and Alabama.
Bower's Stores	Discount	12	Georgia, Kentucky, and North Carolina.
Zayre Corp.	do	14	Maine, Massachusetts, and Pennsylvania.
David Lee Stores	Variety	17	Alabama, and Georgia.
Fuller Supermarkets, Inc.	Food	9	Alabama.
Pete Moore Appliance Center	Miscellaneous	10	Washington, District of Columbia, Kentucky, Pennsylvania, and Virginia.
Remnant House (fabrics)	do	14	Arkansas, Illinois, Indiana, Kentucky, and Missouri.
Wallace E. Johnson Supply Co.	do	7	Arkansas and Mississippi.
Olan Mills, Inc.	do	35	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Virginia.
Hale Drug Co.	Drugs	14	Alabama, Arkansas, Georgia, Mississippi, North Carolina, and Tennessee.
City Drug Co.	do	5	North Carolina.
Katz Drug Co.	do	42	Iowa, Kansas, Missouri, and Oklahoma.
United Shoe Stores Co.	Shoes	44	Louisiana, Arkansas, Georgia, Texas, Mississippi, Oklahoma, and others.
Dotty Shops, Inc.	Clothing and furnishings	6	Missouri, Illinois, and Kentucky.
Advance Stores Co.	Auto supply	46	North Carolina, South Carolina, and Virginia.
Free Service Tire Stores, Inc.	do	11	North Carolina.
Royal Auto Supply Co.	do	12	Alabama.
Auto-Lee Stores, Inc.	do	50	Alabama, Florida, Louisiana, and Mississippi.
Economy Auto Stores, Inc.	do	28	Alabama, Florida, and Georgia.

TEXAS

King Clothing Co., Inc.	Clothing and furnishings	18	Indiana, Michigan, and Ohio.
O. P. O. Clothes	do	34	Alabama, Arizona, California, Florida, North Carolina, Georgia, Louisiana, Maryland, Mississippi, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
Smart & Thrifty Dresses, Inc.	Clothing	33	Alabama, Florida, Louisiana, South Carolina, and Virginia.
Sumner Stores Corp.	do	33	Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, South Carolina, Tennessee, Virginia, and New York.
Jubilee Shops, Inc.	Clothing and furnishings	15	New York, Indiana, Kansas, Maryland, New Jersey, Ohio, Pennsylvania, and Virginia.
Tanne-Arden, Inc.	Clothing	36	Arizona, California, Colorado, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Utah, Washington, and New York.
Ellay Stores, Inc.	Clothing and furnishings	43	Illinois, Indiana, North Carolina, Ohio, Pennsylvania, West Virginia, and New Jersey.
Consolidated Retail Stores, Inc.	do	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, and Tennessee.
Lady Oris Hosiery Shops	do	11	Illinois, Kansas, Louisiana, New York, and Tennessee.
Millinery Stores	do	27	Connecticut, Washington, D.C., Illinois, Indiana, Minnesota, Ohio, and Tennessee.
Dundee Smart Clothes, Inc.	do	15	California, New York, Pennsylvania, Utah, and Washington.
Geo. E. Keith Co.	Shoes	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, and Utah.
Midland Shoe Co.	do	38	Alabama, Arkansas, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, and Wisconsin.
Morton's Shoe Stores, Inc.	do	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, and Virginia.
Roe Bros. Stores, Inc.	do	46	Arizona, California, Colorado, Idaho, New Mexico, Nevada, Oregon, Washington, and Wyoming.
Weiss & Neumann Shoe Co.	do	50	Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, and Wisconsin.
Wm. Cameron and Co.	Hardware	35	Oklahoma.
Carey Lumber Co.	do	12	Do.
Kemp Lumber Co.	do	7	New Mexico.
Virginia Dare Stores Corp.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and Wisconsin.
National Manufacture & Stores Corp.	Furniture	40	Alabama, Georgia, North Carolina, Louisiana, South Carolina, and Tennessee.
Wornser Hat Stores, Inc.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, and Tennessee.
Weiss Bros. Stores, Inc.	do	19	Alabama, Georgia, Indiana, Louisiana, Mississippi, Oklahoma, and Tennessee.
Peyton-Marcus Co.	do	14	Kansas, Louisiana, and Oklahoma.
Haverty Furniture Co.	Furniture	28	Alabama, Arkansas, Florida, Georgia, Tennessee, Louisiana, North Carolina, South Carolina, and Virginia.
Hemenway Furniture Co., Inc.	do	10	Louisiana.
Geo. E. Keith Co.	Shoes	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, and Utah.
Nettleton Shops, Inc.	do	45	All States.
Family Stores	do	22	Arkansas and Oklahoma.
Given Bros., Inc.	do	20	Arizona and New Mexico.
Austin Shoe Stores	do	33	Louisiana.
Magikist Service Corp.	Drycleaning	10	Arizona, California, Florida, Illinois, Indiana, Massachusetts, Michigan, New York, Ohio, Pennsylvania, and Wisconsin.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

TEXAS—Continued

Company	Category	Number of stores	Other States of operation
Page Co., Inc.	Clothing and furnishings	9	California, Michigan, and Ohio.
Bentley's, Inc.	do	6	Also Oklahoma.
Nunn-Bush Shoe Co.	Shoestore	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.
Morton's Shoe Stores, Inc.	Shoes	15	Massachusetts, Connecticut, Delaware, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, and Virginia.
S & Q Clothiers	Clothing and furnishings	9	Arkansas and Oklahoma.
Heath Furniture Co.	Furniture	10	New Mexico.
M. N. Landau Stores, Inc.	Variety	20	New York, Connecticut, Indiana, Massachusetts, Michigan, New Hampshire, New Jersey, and North Carolina.
Jean Heart Shops	Clothing and furnishings	9	Louisiana.
Palais Royal, Inc.	do	10	Arkansas and Louisiana.
Aaronson Bros. Stores Corp.	do	22	Texas.
Brookshire's Food Stores	Food	17	Louisiana.
Circle "K" Drive-In Food Stores	do	34	Arizona and New Mexico.
Evans Foodway Stores	do	10	New Mexico.
Barrett Grocery Co.	do	9	Oklahoma.
Longwear Paint & Varnish Works	Miscellaneous	7	Missouri, Kansas, and Oklahoma.
Lewis Shoe Stores	Shoestore	14	Arizona, Florida, Illinois, and Kentucky.
Kuhn Paint Co.	Miscellaneous	14	Louisiana.
Volume Shoe Distributors	Shoes	8	Oklahoma and Kansas.
Bay Shoe Co., Inc.	do	7	Louisiana.
Newstadt's Shoe Stores	do	8	Do.
United Shoe Stores Co.	do	44	Louisiana, Arkansas, Georgia, Mississippi, Oklahoma, Tennessee, and others.
Schaffer's	Clothing and furnishings	8	Colorado, Iowa, Minnesota, and Nebraska.
Adams Management Corp.	do	12	Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, and Rhode Island.
Sweetbriar Shops, Inc.	do	48	Arizona, Colorado, Idaho, Montana, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Utah, and Wyoming.
Aaronson Bros. Stores Corp.	do	22	Louisiana.
P. W. West's Stores	Variety	5	Oklahoma.
Puckett's Food Stores	Food	11	Do.
Eastland 5¢-\$1.00 Stores	Variety	9	Do.
M. E. Moses Co., Inc.	do	32	Do.
E. B. Mott Co.	do	42	New Mexico.
Duke & Ayres, Inc.	do	48	Oklahoma.
C. G. Morrison & Co. 5¢-\$1 Stores	do	18	New Mexico.
The Fed-Mart Corp.	Discount stores	7	Arizona and California.
Cashway Supermarkets	Food	6	New Mexico.
Shop Rite Foods, Inc.	do	49	Do.
B. & J. Drug Co.	Drugstore	5	New Mexico and Oklahoma.
The National Hotel Co.	do	14	Alabama, Indiana, Louisiana, Nebraska, South Carolina, and Virginia.
Skaggs Drug Center, Inc.	do	28	Arizona, Colorado, Idaho, Louisiana, Montana, Nevada, New Mexico, Oklahoma, and Utah.
Parker's Food Stores, Inc.	Food	14	Oklahoma.
Beard & Babelman	Clothing and furnishings	36	Iowa, Missouri, Kansas, Nebraska, Oklahoma, and South Dakota.
Salle Ann Shops, Inc.	do	19	Missouri and Illinois.
Markson Bros, Inc.	do	41	California, Arizona, Colorado, Illinois, Kansas, Maine, Massachusetts, New York, and Oklahoma.
House of Nine, Inc.	do	34	California, Arizona, Colorado, Michigan, Utah, Missouri, Oregon, and Pennsylvania.
Maternity Modes	do	6	New Mexico and Arizona.
Babeock Bros. Auto Supply Co.	Auto supply	17	Oklahoma.
The Abel Corp.	do	36	District of Columbia, Iowa, Indiana, Maryland, Michigan, Pennsylvania, Ohio, and West Virginia.
Beenar's	Clothing and furnishings	19	Illinois, Indiana, Iowa, and Oklahoma.

UTAH

Tanne-Arden, Inc.	Clothing	36	Arizona, California, Colorado, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Texas, Washington, and New York.
Dundee Smart Clothes, Inc.	do	15	California, New York, Pennsylvania, Texas, and Washington.
Geo. E. Keith Co.	Shoes	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Rollnick Shoe Co.	do	9	Colorado, Idaho, and Wyoming.
Anderson Lumber Co.	Hardware	16	Idaho.
Mountain States Implement Co.	do	9	Do.
Geo. E. Keith Co.	Shoes	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Nettleton Shops, Inc.	do	45	Operates in all States.
M. H. King Co.	Variety	20	Idaho, Montana, and Oregon.
Lowe Drug Co.	Drugstore	5	Idaho.
Skaggs Drug Center, Inc.	do	28	Arizona, Colorado, Idaho, Louisiana, Montana, Nevada, New Mexico, Oklahoma, and Texas.
Allen's Cash Stores	Food	8	Nevada.
Bennett's (paints)	Miscellaneous	8	California and Idaho.
Union Distributing Co.	do	5	Wyoming.
Sweetbrier Shops, Inc.	Clothing and furnishings	48	Arizona, Colorado, Idaho, Montana, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming.
Conrad's, Inc.	do	11	Colorado, Idaho, Montana, Oregon, Washington, and Wyoming.
House of Nine, Inc.	do	34	California, Arizona, Texas, Colorado, Michigan, Missouri, Oregon, and Pennsylvania.
Morrow's Nut House Corp.	Candy stores	5	California and Oregon.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

VERMONT

Company	Category	Number of stores	Other States of operation
Puritan Federal Clothing Stores, Inc.	Clothing and furnishings	46	Connecticut, Illinois, Indiana, New Hampshire, Maine, Massachusetts, Michigan, and Pennsylvania.
Miss New York Frocks, Inc.	do	5	Massachusetts and New York.
J. Baker, Inc.	Shoes	14	Connecticut and Massachusetts.
Morton's Shoe Stores, Inc.	do	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, and Virginia.
Diamond National Corp.	Hardware	26	Connecticut, Maine, Massachusetts, New Hampshire, and Rhode Island.
Nettleton Shops, Inc.	Shoes	45	Operates in all States.
Union-Fern, Inc.	Furniture	12	Massachusetts and New York.
Max Dichter, Inc.	Variety	5	Massachusetts and New Hampshire.
M. H. Fishman Co., Inc.	do	47	New York, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Ohio, Virginia and Pennsylvania.
Max Dieter, Inc.	Discount Stores	5	Massachusetts, New Jersey, New York, and Ohio.
National Army Stores Corp.	Miscellaneous	19	New York.
Strollman Shops	Clothing and furnishings	7	Do.

VIRGINIA

Adelue Apparel Shops, Inc.	Clothing and furnishings	49	New York, Ohio, New Jersey, Arkansas, Illinois, Indiana, North Carolina, Tennessee, and Pennsylvania.
Good-Val Stores Corp.	do	26	Florida, Georgia, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania and South Carolina.
My Shop, Inc.	do	41	Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, and Wisconsin.
Cranes-Mayos Clothes, Inc.	do	40	Delaware, Georgia, Illinois, Indiana, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, and West Virginia.
O. P. O. Clothes	do	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, and West Virginia.
Smart & Thrifty Dresses, Inc.	Clothing	33	Alabama, Florida, Louisiana, South Carolina, and Texas.
Eleanor Shops, Inc.	Clothing and furnishings	40	Alabama, Georgia, Mississippi, North Carolina, Pennsylvania, and South Carolina.
Sumner Stores Corp.	Clothing	33	Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, South Carolina, Texas, Tennessee, and New York.
Jubilee Shops, Inc.	Clothing and furnishings	15	New York, Indiana, Kansas, Maryland, New Jersey, Ohio, Pennsylvania, and Texas.
Best & Co., Inc.	do	19	Connecticut, District of Columbia, Massachusetts, Michigan, New Jersey, New York, Ohio, and Pennsylvania.
Hofstadter & Albert Millinery Corp.	do	7	Washington, D. C., Maryland, Pennsylvania, and Ohio.
Morton's	do	5	District of Columbia and Maryland.
Joy Stores, Inc.	do	18	Indiana, Kentucky, New Jersey, North Carolina, Ohio, Pennsylvania, West Virginia, and Wisconsin.
Montaldo's	do	11	Arkansas, Colorado, Missouri, New Jersey, North Carolina, Ohio, and Oklahoma.
David's Specialty Shops, Inc.	do	15	District of Columbia, New York, and Ohio.
Felser Shoe Stores	Shoes	13	District of Columbia, and Maryland.
Morton's Shoe Stores, Inc.	do	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, and Vermont.
Shelbro, Inc.	do	5	Connecticut, New York, and Rhode Island.
Peoples' Hardware Stores	Hardware	19	District of Columbia and Maryland.
Wilbur-Rogers, Inc.	Clothing and furnishings	38	Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, and Pennsylvania.
Virginia Dare Stores, Corp.	do	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Wisconsin.
Cato Stores, Inc.	do	50	North Carolina and South Carolina.
Haverty Furniture Co.	Furniture	28	Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, and Texas.
Greenbelt Consumer Services, Inc.	Food supply	10	Maryland.
Nettleton Shops, Inc.	Shoes	45	All States.
Siebler Furniture Co., Inc.	Furniture	7	Maryland and West Virginia.
Elite Laundry & Cleaning Co.	Dry Cleaning	10	Washington, D. C., and Maryland.
Nathan & Sylvia Robin, Inc.	do	14	Washington, D. C., and Maryland.
Big "B" One Hour Cleaners	do	15	Florida, Illinois, Iowa, Kentucky, Missouri, Tennessee, and Virginia.
Blue Ribbon Laundry	do	28	Maryland and Washington, D. C.
The Nettie Lee Shops	Clothing and furnishings	7	Tennessee.
Nunn-Bush Shoe Co.	Shoes	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin.
Mortou's Shoe Stores, Inc.	do	15	Massachusetts, Connecticut, Delaware, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, and Vermont.
Barr Stores, Inc.	Variety	6	West Virginia.
Wilson's 5¢-10¢-25¢ Stores	do	7	Georgia.
Robertson's 5¢-10¢ Stores, Inc.	do	5	District of Columbia.
Mumford Do-It-Yourself Stores, Inc.	Miscellaneous stores	43	Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee.
George's Warehouse Supermarkets	do	7	Washington, D. C.
Home, Inc. (paints, glass, and tile)	do	10	Washington, D. C., and Maryland.
Rogers Toy Shops, Inc.	do	18	Washington, D. C., Tennessee, Ohio, Florida, Alabama, Maryland, Georgia, and Pennsylvania.
Stidham Tire Stores	do	7	Washington, D. C., and Maryland.
Charles G. Stott Co., Inc.	do	6	Do.
W. R. Winslow Co. (paints)	do	8	Do.
Mack's 5¢-10¢-25¢ Stores, Inc.	Variety	31	Georgia, North Carolina, and South Carolina.
P & N 5¢-10¢ Stores, Inc.	do	5	North Carolina.
Crest Stores Co.	do	13	North Carolina and South Carolina.
Fine's Men's Shops, Inc.	Clothing and furnishings	7	North Carolina.
Barr Bros., Inc.	Jewelry	17	Do.
W. M. Wall Jewelers	do	5	Do.
M. H. Fishman Co., Inc.	Variety	47	New York, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Ohio, Pennsylvania, and Vermont.
Charles Stores Co., Inc.	do	32	New York, Kentucky, North Carolina, Pennsylvania, and Tennessee.
W. V. Ramsey Co.	do	5	South Carolina, North Carolina, and Tennessee.
Discount Food City	Food	5	Philadelphia.
Rockower Bros., Inc.	Clothing and furnishings	25	Delaware, New Jersey, New York, and Pennsylvania.
The National Hotel Co.	Drugstore	14	Alabama, Indiana, Louisiana, Nebraska, South Carolina, and Texas.
H. S. King Co.	Variety	5	Maryland and District of Columbia.
Tazewell Supply Co., Inc.	Food	5	West Virginia.
Dalmo Sales Co.	Discount stores	5	Washington, D. C., and Maryland.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

VIRGINIA—Continued

Company	Category	Number of stores	Other States of operation
Miracle Marts.....	Discount stores.....	7	Indiana, Michigan, Pennsylvania, and Rhode Island.
Bargain City U.S.A.....	do.....	13	New Jersey, and Pennsylvania.
Standard Drug Co.....	Drugstore.....	13	District of Columbia.
Patterson Drug Co.....	do.....	11	North Carolina.
Huntsberrys, Inc.....	Shoestore.....	5	Maryland and Pennsylvania.
Critzer Footwear, Inc.....	do.....	14	Maryland.
Hofheimer's, Inc.....	do.....	20	North Carolina.
Brentano's Inc.....	Miscellaneous.....	13	Washington, D.C., Maryland, New Jersey, and New York.
Olan Mills, Inc.....	do.....	35	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
Pete Moore Appliance Center.....	do.....	10	Washington, D.C., Kentucky, Pennsylvania, and Tennessee.
Metro Drug Stores.....	Drugstore.....	10	Maryland and District of Columbia.
Save-Mor Drugs, Inc.....	do.....	10	District of Columbia.
Dart Drug Corp.....	do.....	13	District of Columbia and Maryland.
Silco Cut Price Stores, Inc.....	Drugs.....	50	Delaware, New Jersey, Maryland, Pennsylvania, North Carolina, and West Virginia.
Jelleff's, Inc.....	Clothing and furnishings.....	6	District of Columbia and Maryland.
Terry Shops.....	do.....	24	New Jersey, Delaware, New York, and Virginia.
Webster Clothes, Inc.....	do.....	19	District of Columbia, Indiana, Kentucky, Maryland, New Jersey, North Carolina, Ohio, Virginia, and West Virginia.
Advance Stores Co.....	Auto supply.....	46	North Carolina, South Carolina, and Tennessee.
Joe, The Motorists' Friend, Inc.....	do.....	25	Maryland, Pennsylvania, and West Virginia.
Market Tire, Inc.....	do.....	8	District of Columbia and Maryland.
Taubman's, Inc.....	do.....	13	Maryland.

WASHINGTON

Tanne-Arden, Inc.....	Clothing.....	36	Arizona, California, Colorado, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Texas, Utah, and New York.
Dundee Smart Clothes, Inc.....	Clothing and furnishings.....	15	California, New York, Pennsylvania, Texas, and Utah.
Roe Bros. Stores, Inc.....	Shoe.....	46	Arizona, California, Colorado, Idaho, New Mexico, Nevada, Oregon, Texas, and Wyoming.
Madison Lumber & Mill Co.....	Hardware.....	8	Idaho.
Jacqueline Shops.....	Clothing and furnishings.....	6	Oregon.
Herman's Men's Stores.....	do.....	9	Do.
Zukor's.....	do.....	16	New York, California, and Oregon.
Nettleton Shops, Inc.....	Shoes.....	45	All States.
Wallpapers, Inc.....	Miscellaneous.....	5	Oregon and California.
Sherman Clay & Co.....	do.....	23	California, Oregon, and Washington.
Fonk's 5¢-\$1 Stores.....	Variety.....	13	Idaho and California.
Weisfeld's Inc.....	Jewelry.....	32	California, Idaho, and Oregon.
Dick Tyrrell Jewelers, Inc.....	do.....	11	California.
Big "C" Stores.....	Food.....	20	Oregon.
Oregon Piggly Wiggly Co.....	do.....	32	Do.
Sigman Food Stores.....	do.....	15	Idaho and Oregon.
Pay N'Save Drugs, Inc.....	Drugstore.....	12	Oregon.
Zapp's Drug Stores.....	Drugstores.....	9	Do.
Nordstrom's, Inc.....	Shoe store.....	18	California and Oregon.
Preservative Paint Co.....	Miscellaneous.....	8	Oregon.
Cent-Wise Drug Stores.....	Drugs.....	5	Do.
Pay Less Stores.....	do.....	18	California, Oregon, and Idaho.
Conrad's, Inc.....	Clothing and furnishings.....	11	Colorado, Idaho, Montana, Oregon, Utah, and Wyoming.
Hartfield Stores, Inc.....	do.....	45	California, Arizona, New Jersey, New York, Oregon, and Hawaii.

WEST VIRGINIA

Arlene Shops, Inc.....	Clothing and furnishings.....	8	New York, Ohio, and Pennsylvania.
Retail Jenny Shops, Inc.....	do.....	20	Indiana, Ohio, and Pennsylvania.
Crane-Mayos Clothes, Inc.....	do.....	40	Delaware, Georgia, Illinois, Indiana, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, and Virginia.
O.P.O. Clothes.....	do.....	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, and Virginia.
Beverly Shops.....	do.....	7	Kentucky and Ohio.
Broadstreet's, Inc.....	do.....	12	Illinois, New Jersey, New York, and Pennsylvania.
Ellay Stores, Inc.....	do.....	43	Illinois, Indiana, North Carolina, Ohio, Pennsylvania, Texas, and New Jersey.
Joy Stores, Inc.....	do.....	18	Indiana, Kentucky, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, and Wisconsin.
Krasner Bros., Inc.....	do.....	26	Kentucky, Maryland, Missouri, and Tennessee.
Collins Stores, Inc.....	do.....	24	Kentucky, Ohio, Pennsylvania, and Tennessee.
The Ormond Shops, Inc.....	do.....	34	Maryland, New Jersey, and Pennsylvania.
Carolina Lumber Co.....	Hardware.....	6	Kentucky and Ohio.
Scott Lumber Co.....	do.....	9	Ohio.
Siebler Furniture Co., Inc.....	Furniture.....	7	Maryland and Virginia.
Eckerly Millinery.....	Clothing and furnishings.....	5	Ohio.
Taggart Shoes, Inc.....	Shoes.....	10	Kentucky and Ohio.
Nettleton Shops, Inc.....	do.....	45	All States.
Jay Roy Co., Inc.....	Jewelry.....	25	Maryland and Pennsylvania.
S. A. Meyer Co.....	do.....	15	Pennsylvania, New York, Ohio, and Maryland.
Lewis Furniture Co.....	Furniture.....	5	Ohio.
Super Shoe Stores.....	Shoes.....	14	Maryland and Pennsylvania.
Nunu-Bush Shoe Co.....	do.....	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
R. H. Hobbs Co. 5¢-\$1 Stores.....	Variety.....	7	Kentucky.
Barr Stores, Inc.....	do.....	6	Virginia.
Big Bear Stores Co.....	Food.....	31	Ohio.
Evans Grocery Co.....	do.....	13	Do.
Morris Allon & Co.....	Clothing and furnishings.....	18	Pennsylvania.
Fashion Hosiery Stores, Inc.....	do.....	32	Pennsylvania and Ohio.
Tazewell Supply Co., Inc.....	Food.....	5	Virginia.
Hoge-Davis Drug Co.....	Drugstore.....	6	Ohio.
Majestic Paint Centers, Inc.....	Miscellaneous.....	16	Ohio.
Silco Cut Price Stores, Inc.....	Drugs.....	50	Maryland, New Jersey, Pennsylvania, Delaware, North Carolina, and Virginia.
My Maternity Shop, Inc.....	Clothing and furnishings.....	45	Connecticut, New York, Ohio, Pennsylvania, Ontario, and Quebec, Canada.
Webster Clothes, Inc.....	do.....	19	District of Columbia, Indiana, Kentucky, Maryland, New Jersey, North Carolina, Ohio, and Virginia.

State by State list of some retail chains with 5 to 50 establishments in 2 or more States (covered by Ayres-Kitchin substitute)—Continued

WEST VIRGINIA—Continued

Company	Category	Number of store	Other States of operation
Standard Auto & Radio Supply Co.....	Auto supply.....	13	Ohio and Pennsylvania.
Miller's Auto Supplies, Inc.....	do.....	15	Maryland and Pennsylvania.
Joe, The Motorists' Friend, Inc.....	do.....	25	Maryland, Pennsylvania, and Virginia.
Gatling's Auto Stores.....	do.....	7	Pennsylvania.
Flemming & Flower.....	do.....	5	Ohio.
The Abel Corp.....	do.....	36	District of Columbia, Iowa, Indiana, Maryland, Michigan, Ohio, Pennsylvania, Texas, and West Virginia.
Lou's Auto Stores.....	do.....	5	Maryland.

WISCONSIN

Jerrold's.....	Clothing and furnishings.....	10	Michigan and Ohio.
Buttrey Stores, Inc.....	do.....	23	Iowa, Minnesota, North Dakota, and South Dakota.
My Shop, Inc.....	do.....	41	Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, and Virginia.
Linpark Clothing Corp.....	do.....	12	Iowa, Minnesota, Nebraska, New York, and South Dakota.
Brooks Fashion Stores, Inc.....	do.....	18	Illinois, New York, and Ohio.
Tradehome Shoe Stores, Inc.....	Shoes.....	20	Iowa, Minnesota, and South Dakota.
Weiss & Neumann Shoe Co.....	do.....	50	Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, and Texas.
Crown Self-Service Shoe Stores, Inc.....	do.....	38	Illinois, Indiana, Michigan, and Ohio.
Hurrelle Bros. Shoe Co.....	do.....	7	Iowa and Minnesota.
Maling Shoes.....	do.....	31	Illinois, Indiana, Michigan, and Ohio.
Midland Shoe Co.....	do.....	38	Alabama, Arkansas, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, and Texas.
T. G. Allin Co.....	Hardware.....		Minnesota.
Lincoln Stores, Inc.....	do.....	11	Do.
Virginia Dare Stores, Corp.....	Clothing and furnishings.....	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Virginia.
E. G. Shinner & Co., Inc.....	Food supply.....	47	Illinois, Iowa, Michigan, Ohio, and Pennsylvania.
Estee Sleep Shops.....	Furniture.....	10	Illinois.
Nettleton Shops, Inc.....	Shoes.....	45	All States.
Leath & Co.....	Furniture.....	37	Illinois, Indiana, Iowa, Michigan, and Minnesota.
L. Fish Furniture Co.....	do.....	11	Illinois, Indiana, and Ohio.
Magikist Service Corp.....	Drycleaning.....	10	Arizona, California, Florida, Illinois, Indiana, Massachusetts, Michigan, New York, Ohio, Pennsylvania, and Texas.
Factory Tile Warehouse, Inc.....	Miscellaneous stores.....	15	Illinois.
Bloch Daneman Co.....	Furniture.....	10	Maryland, Michigan, Ohio, and Pennsylvania.
Nunn-Bush Shoe Co.....	Shoes.....	23	Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
C. J. Silver Jewelers, Inc.....	Jewelry.....	9	Minnesota and Iowa.
Super Valu Stores, Inc.....	Food.....	11	Minnesota.
Arenz Shoe Co.....	Shoes.....	6	Iowa and Minnesota.
Mathison Tire Co.....	Miscellaneous.....	7	Minnesota, Michigan, and North Dakota.
Mary Lester of Southern Wisconsin.....	do.....	20	Illinois.
The Muir Drug Co.....	Drugstore.....	28	Indiana, Michigan, and Ohio.
Oscor Drug Co.....	do.....	30	Illinois, Indiana, Iowa, Minnesota, and North Dakota.
Spyrison's Shoes, Inc.....	Shoes.....	8	Illinois.
Western Tire Auto Stores, Inc.....	Auto supply.....	48	Illinois, Indiana, and Michigan.
Equitable Millinery.....	Clothing and furnishings.....	25	Illinois, Indiana, Iowa, Kentucky, Michigan, and Ohio.
Benson & Rixon Co.....	do.....	11	Illinois and Indiana.
Joy Stores, Inc.....	do.....	18	Indiana, Kentucky, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, and West Virginia.

WYOMING

L. Goldman Shoe Co.....	Shoe.....	5	Nebraska, Colorado, and South Dakota.
Roe Bros. Stores, Inc.....	do.....	46	Arizona, California, Colorado, Idaho, New Mexico, Nevada, Oregon, Texas, and Washington.
Rollnick Shoe Co.....	do.....	9	Colorado, Idaho, and Utah.
S. A. Foster Lumber Co.....	Hardware.....	9	Colorado and Nebraska.
Nettleton Shops, Inc.....	Shoe.....	45	All States.
L. B. Murphy Co.....	Variety.....	8	Nebraska.
Food Centers, Inc.....	Food.....	8	Do.
Sawyer Stores, Inc.....	do.....	13	Montana.
Union Distributing Co.....	Miscellaneous.....	5	Utah.
Sweetbriar Shops, Inc.....	Clothing and furnishings.....	48	Arizona, Colorado, Idaho, Montana, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Utah.
Conrad's, Inc.....	do.....	11	Colorado, Idaho, Montana, Oregon, Utah, and Washington.
Bjornbaum & Son.....	Auto supply.....	8	South Dakota.
Stickney's, Inc.....	do.....	10	Colorado and Nebraska.

Mr. ROOSEVELT. Mr. Chairman, I yield 5 minutes to the gentleman from Utah [Mr. KING].

(Mr. KING of Utah asked and was given permission to revise and extend his remarks.)

Mr. KING of Utah. Mr. Chairman, I rise in support of the committee bill. We have heard some questions raised about whether the committee bill introduces a new concept of interstate commerce, and about whether it goes too far when it covers retailers and service enterprises.

Let me attempt to throw light on these two questions.

First, the issue is not whether retailers are or are not in interstate commerce.

One glance at the products on the shelves of the typical store should make everyone thoroughly aware that retailers distribute products coming from all parts of the country, and that they are therefore clearly in the stream of interstate commerce.

It does not make any difference whether the retail company runs 3 stores or 10 stores, or whether it runs them all in one State, or has them spread over several States. If it sells interstate products, it is a part of interstate commerce regardless of the location or number of its stores.

The issue, I repeat, is not whether these businesses are in commerce, but

simply whether we choose to exercise our authority to cover them.

Let us note further, that we have already considered these types of business to be within our regulatory authority. In other legislation, indeed in legislation in the labor field, we have already covered such business. The Taft-Hartley Act covers retailing. The Landrum-Griffin Act regulates every labor union in every industry "affecting interstate commerce," so that a union in a retail store is already under the Congress regulatory authority.

Thus the issue is not whether we should stretch our constitutional authority, but rather whether we should now

use authority we have repeatedly exercised in other legislative areas. The issue is whether certain industries, which are already regulated and indeed protected by Federal legislation, should be now required to meet fair minimum labor standards. This is essentially an issue of public policy, not of constitutional authority.

Finally, my own position is that these businesses surely should meet the same minimum fair standards as other American industries, but that a distinction should be drawn for the smallest of such businesses. I believe that even the corner grocer is technically in interstate commerce, but I draw the line at extending our authority to such locally-oriented merchants. I would favor continued exemption for them. Since some explicit dividing line is necessary between the truly small merchant and the sizable retailer, use of a business volume test, along the lines already used by the National Labor Relations Board, is sound. Although that Board uses \$500,000 annual business as the test of whether it takes coverage, I think \$1 million is a sounder dividing line between the substantial and the genuinely small business, as far as this legislation is concerned.

I, therefore, support that \$1 million test, which is the basis used by the committee bill, as the cutoff point for determining how far to exercise congressional authority in requiring business adherence to fair minimum labor standards.

I urge the passage of the committee bill.

Mr. ROOSEVELT. Mr. Chairman, I yield 5 minutes to the distinguished majority whip, the gentleman from Oklahoma [Mr. ALBERT], for a very important statement.

(Mr. ALBERT asked and was given permission to revise and extend his remarks.)

Mr. ALBERT. Mr. Chairman, I have just introduced a bill which contains substantial amendments to the bill presented to the House by the committee. This bill has been drawn after consultation with members of the Democratic leadership, the Secretary of Labor, and representatives of the administration. This bill undertakes to work out some of those provisions which have troubled many Members of Congress and which have been objected to by many types of establishments.

Copies of this measure will be available to all Members on Friday, that is, tomorrow. I shall undertake by unanimous-consent request when we go back into the House to have a copy of this bill inserted in the CONGRESSIONAL RECORD, as well as having had the bill introduced, and I am hopeful that printed copies will be available to the Members tomorrow.

It is our belief that this substitute will provide a sound basis for realistic action by the House as a reasonable and moderate accommodation to the wide range of views expressed on this measure during this debate. Salient features of the new proposal are: No overtime requirements for all newly covered employees, and a new and solid basis for exerting interstate commerce only over very large

retail service, and other covered establishments, only where 25 percent of the annual volume of these firms depends on interstate commerce.

The fact that they would be provided a flat \$1 minimum wage for all newly covered workers will, in my opinion, do much to overcome the objections of many Members of the House and of retail and service industries.

We believe this to be a moderate yet effective approach to legislation of this kind at this time. The effect of this bill will be with respect to presently covered employees and as to the minimum wage for the first 2 years, \$1.15 an hour, and after 2 years \$1.25 an hour; newly covered employees \$1 an hour now and later on; maximum hours, presently covered employees, time and one-half for overtime after 40 hours; newly covered employees, no overtime provisions. Only retail and service establishments, laundries, transit systems, and other establishments doing more than \$250,000 annual volume of business, and only if they are in a common business enterprise, 25 percent of whose dollar volume of business depends upon interstate commerce, and again, only where the enterprise does a \$1-million volume of business per year.

These annual dollar volume standards are \$350,000 in the case of construction enterprises. All family-run stores are exempt from the minimum wage. All hotels, motels, restaurants, hospitals, nonprofit organizations, schools for handicapped or exceptional children, and those engaged in processing are exempt. Telephone companies having 750 stations or less will be exempt. Family laundries engaged mostly in purely intrastate commerce are also exempt. Small interstate retail manufacturing and sales firms are also exempt if they do 85 percent of their selling within the State. Motion picture theaters would be exempt, as well as food handlers, catering houses, and seasonal amusement and recreation businesses.

Special provisions for retail and service establishments are as follows:

First. Lower minimum wages set by the Secretary of Labor for full-time students outside school hours and jobs not held by full-time workers.

Second. Bona fide sales executives and administrators are exempt even if they do less than 40 percent nonexecutive or administrative work.

With respect to Puerto Rico and the Virgin Islands, special provisions for lower than minimum wages and for lower wages set by order of the Secretary of Labor.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

H.R. 5900

A bill to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

Act may be cited as the "Fair Labor Standards Amendments of 1961".

DEFINITIONS

Sec. 2. (a) Paragraph (f) of section 3 of the Fair Labor Standards Act of 1938 is amended by inserting after "Agricultural Marketing Act, as amended," the following: "the processing of shade-grown tobacco for use as cigar wrapper tobacco by agricultural employees employed in the growing and harvesting of such tobacco, which processing shall include, but shall not be limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling, prior to the stemming process."

(b) Paragraph (m) of section 3 of such Act, defining the term "wage", is amended by inserting before the period at the end thereof a colon and the following: "Provided, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further*, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee".

(c) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs:

"(p) 'American vessel' includes any vessel which is documented or numbered under the laws of the United States.

"(q) 'Secretary' means the Secretary of Labor.

"(r) 'Enterprise' means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That, within the meaning of this subsection, a local retail or service establishment which is under independent ownership and control shall not be deemed to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not limited to, an agreement (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such local establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

"(s) 'Enterprise engaged in commerce or in the production of goods for commerce' means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person, if not less than 25 per centum of the annual gross dollar volume of business (exclusive of excise taxes at the retail level which are separately stated) of such enterprise is made from sales or services which require, or depend on, shipments of goods in commerce or engagement by employees in commerce or in the production of goods for commerce:

"(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

"(2) any such enterprise which has one or more establishments engaged in laundering, cleaning, or repairing clothing or fabrics if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

"(3) any such enterprise which is engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

"(4) any establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;

"(5) any such enterprise which is engaged in the business of construction or reconstruction, or both, if the annual gross volume from the business of such enterprise is not less than \$350,000;

"(6) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000, exclusive of excise taxes at the retail level which are separately stated:

Provided, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce, or a part of an enterprise engaged in commerce or in the production of goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner."

INVESTIGATIONS OF EFFECTS ON EMPLOYMENT OF FOREIGN COMPETITION

SEC. 3. Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in fact resulted, or is in fact likely to result, from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress."

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting after the words "production of goods for commerce" wherever they appear, the following: "or employed in any enterprise engaged in commerce or in the production of goods for commerce".

MINIMUM WAGES

SEC. 5. (a) (1) Section 6(a) of such Act is amended by inserting after the word "who" in the portion of thereof preceding paragraph (1), the words "in any workweek".

(2) Paragraph (1) of section 6(a) of such Act is amended to read as follows:

"(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961,

and not less than \$1.25 an hour thereafter, except as otherwise provided in this section."

(3) The first sentence of paragraph (3) of section 6(a) of such Act is amended to read as follows:

"(3) If such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time."

(b) Subsection (b) of section 6 of such Act is amended to read as follows:

"(b) Every employer shall pay to each of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1), (2), (3), or (5) or by an establishment described in section 3(s) (4) or (6), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at a rate not less than \$1 an hour.

"(2) If such employee is employed as a seaman on an American vessel, wages at not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement)."

(c) Subsection (c) of section 6 of such Act is amended to read as follows:

"(c) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5: *Provided*, That (1) the following rates shall apply to any such employee to whom the rate or rates prescribed by subsection (a) would otherwise apply:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, increased by 15 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1961 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Beginning two years after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 10 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amend-

ments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

"(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1961 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

"(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

"(2) In the case of any such employee to whom subsection (b) would otherwise apply, the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates, in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1961.

"(3) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed

pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee."

MAXIMUM HOURS

SEC. 6. (a) Subsection (a) of section 7 of such Act is amended by designating such subsection as subsection (a) (1), by inserting after the word "who" the words "in any workweek".

(b) Section 7 of such Act is amended by adding at the end thereof the following new subsection:

"(h) No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period (not less than one month) represents commissions on goods or services."

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 7. Subsection (a) of section 8 of such Act is amended by inserting after the word "industries" where it appears in the first sentence the words "or enterprise"; and by inserting after the words "production of goods for commerce" where they appear in the second sentence the following: "or in any enterprise engaged in commerce or in the production of goods for commerce".

LIMITATIONS ON REPORTS REQUIREMENTS

SEC. 8. Section 11(c) of such Act is amended by adding at the end thereof the following new sentence: "If an employer has filed with the Secretary a written assurance (in such form as the Secretary shall prescribe) that he is complying with the provisions of this Act, the Secretary shall not require such employer to make any other written report to him pursuant to this subsection unless he has reason to believe, on the basis of complaints made to him or on the basis of other information he considers reliable, that such employer has violated or is violating this Act."

CHILD LABOR PROVISIONS

SEC. 9. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "or in any enterprise engaged in commerce or in the production of goods for commerce."

EXEMPTIONS

SEC. 10. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

"(a) The provisions of section 6 and 7 shall not apply with respect to—

"(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity be-

cause of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

"(2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, if such establishment—

"(i) is not in an enterprise described in section 3(s) (1), or

"(ii) is in such an enterprise and is a hotel, motel, restaurant, hospital, or school for physically or mentally handicapped, or gifted, children, or

"(iii) has an annual dollar volume of sales (exclusive of excise taxes at the retail level which are separately stated) which is less than \$250,000.

A 'retail or service establishment' shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

"(3) any employee employed by any establishment (except an establishment in an enterprise described in section 3(s) (2)) engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment's annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, commercial, or communications business: *Provided further*, That neither the exemption in this paragraph nor in paragraph (2) shall apply to any employee of a hotel, motel, or restaurant who is engaged in laundering, cleaning, or repairing clothing or fabrics where such services are not performed exclusively for such hotel, motel, or restaurant: *Provided further*, That this exemption shall not apply to any employee of any such establishment which has an annual dollar volume of sales of such services of \$250,000 or more and which is engaged in substantial competition in the same metropolitan area with an establishment less than 50 per centum of whose annual dollar volume of sales of such service is made within the State in which it is located; or

"(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or

"(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or

"(6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

"(7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or

"(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where printed and published or counties contiguous thereto; or

"(9) any employee employed by a motion picture theater; or

"(10) any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or

"(11) any switchboard operator employed by an independently owned public telephone company which has not more than seven hundred and fifty stations; or

"(12) any employee of an employer engaged in the business of operating taxicabs; or

"(13) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

"(14) any employee employed as a seaman on a vessel other than an American vessel; or

"(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve; or

"(16) any employee of an establishment primarily engaged in the preparation or offering of food for human consumption who is employed in connection with the preparation or offering of food or beverages for human consumption by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or

"(17) any employee employed in an amusement or recreational establishment that operates on a seasonal basis; or

"(18) any employee employed by a retail or service establishment which is primarily engaged in the business of selling automobiles, trucks, or farm implements.

"(b) The provisions of section 7 shall not apply with respect to—

"(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

"(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

"(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

"(4) any employee employed in the canning, processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or

"(5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

"(6) any employee employed as a seaman; or

"(7) any employee of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, not included in other exemptions contained in this section; or

"(8) any employee of a gasoline service station; or

"(9) any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located in a city or town of fifty thousand population or less, according to the latest available decennial census figures as compiled by the United States Bureau of Census, except where such city or town is part of a standard metropolitan area as defined and designated by the Bureau of Census, which has a total population in excess of one hundred thousand; or

"(10) any employee of an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if (A) the annual gross volume of sales of such enterprise is not more than \$1,000,000 exclusive of excise taxes, and (B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and (C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale; or

"(11) any employee whose minimum rate of wages is governed by section 6(b) of this Act."

EMPLOYMENT OF STUDENTS

SEC. 11. Clause (1) of section 14 of such Act is amended by striking out "and" after "apprentices," and by inserting after "messages," the following: "and of full-time students outside of their school hours in any retail or service establishment: *Provided*, That such employment is not of the type ordinarily given to a full-time employee."

PENALTIES AND INJUNCTION PROCEEDINGS

SEC. 12. (a) Section 16(b) of such Act is amended by adding at the end thereof a new sentence as follows: "The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection."

(b) Section 17 of such Act is amended to read as follows:

"INJUNCTION PROCEEDINGS

"SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15(a)(2) the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947)."

STUDY OF AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS

SEC. 13. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing

of agricultural products under such Act and particularly sections 7(c), 13(a)(10) and 7(b)(3), and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

EFFECTIVE DATE

SEC. 14. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act.

Mr. ROOSEVELT. Mr. Chairman, under the agreement I move that the Committee do now rise.

Mr. AYRES. Mr. Chairman, will the gentleman yield?

Mr. Chairman, I would like a few minutes to ask a few questions on this very important matter.

Mr. ROOSEVELT. Mr. Chairman, I do not yield for that purpose.

Mr. AYRES. Mr. Chairman, I ask for 2 minutes.

The CHAIRMAN. Does the gentleman from California yield to the gentleman from Ohio?

Mr. ROOSEVELT. I yield for a statement, if the gentleman from Ohio cares to make a statement at this time.

Mr. AYRES. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. ROOSEVELT. Mr. Chairman, I yielded to the gentleman from Ohio.

Mr. HALLECK. Mr. Chairman, a parliamentary inquiry.

Mr. AYRES. Mr. Chairman, I yield myself 5 minutes.

The CHAIRMAN. The gentleman from Ohio yields himself 5 minutes.

Mr. AYRES. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. HALLECK. Mr. Chairman, in view of the statement which has been made by my very good friend, the gentleman from Oklahoma on the Democratic side, I am wondering since, as he says, this new substitute represents a very marked departure from the bill as reported by the committee, if he does not think that under the circumstances and in view of the fact that this is a new substitute, and that yesterday we had another one, and, further, that we have a committee bill and we have a substitute that has been offered for which there is a lot of support, it would not be a good idea to send this bill back to the committee in order that the committee could work over all these various proposed substitutes and come out here with something that would be understandable?

Mr. ALBERT. Is the gentleman from Indiana addressing his question to me or to the gentleman from California?

Mr. HALLECK. I am addressing the question to the gentleman from Oklahoma.

Mr. ALBERT. Mr. Chairman, every single issue in this modified bill has been

argued during the consideration of this bill by this body since the debate on the measure commenced. There is not, in my judgment, an important single departure from recommendations which have been considered by the Committee of the Whole or to objections which have been raised by Members of the House. This is an effort—a good faith effort on the part of the leadership and of the administration to move forward with this measure in a manner that will be acceptable to all concerned.

Mr. HALLECK. Will my colleague from Ohio yield to me to make one further observation?

Mr. AYRES. I yield to the gentleman from Indiana.

Mr. HALLECK. Certainly, I do not question the good faith of the gentleman from Oklahoma. He has always acted in good faith and he is acting in good faith in this matter. But I do not think it is a matter of good faith. I think it is a matter of orderly procedure here in the House of Representatives. As a matter of fact, we started with a bill reported by the committee. There was before us in the last session of the Congress what is known as the Kitchin-Ayres substitute.

A similar substitute, practically identical to what has been introduced, has been before the House for some time in the form of bills that have been printed, and the bill is printed in the CONGRESSIONAL RECORD. I must say that, as I understand the gentleman's brief explanation of the bill he has just introduced, it does vary quite substantially from anything that we have heretofore had before the House of Representatives. That is the reason for my suggestion—given, I may say, in good faith—that possibly it might be well to send the bill back to the committee for further committee consideration.

Mr. ALBERT. I would never question my good friend's good faith. We have been discussing two bills here today as well as other proposals. We have discussed the so-called Ayres-Kitchin substitute and the committee bill. This is a proposal in which we undertake to eliminate objections which have been raised both to the Roosevelt and to the Ayres-Kitchin bill.

Mr. AYRES. I take sufficient time to ask the gentleman from Oklahoma if it would be possible to get just one little copy of this bill in order that we can take a look at it?

Mr. ALBERT. I hope it will be possible. It will be in the RECORD tomorrow morning.

Mr. AYRES. We would like very much to have a copy of it because the gentleman mentioned some things here, I may say to the gentleman from Oklahoma, that the committee never gave any consideration to.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield.

Mr. FRELINGHUYSEN. It seems to me as a member of the Education and Labor Committee that we are making a mockery of legislative processes if we are to be presented with a proposal which incorporates what the gentleman

from Oklahoma describes himself as substantial amendments and not be given an opportunity even to see the legislation and then be asked to act favorably or unfavorably on it.

Mr. ALBERT. I have introduced the bill. It will be available tomorrow morning.

Mr. GOODELL. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from New York.

Mr. GOODELL. I would like to say that one of the matters mentioned by the gentleman from Oklahoma was never discussed in any form either in the subcommittee or in the full committee, and that is the 25 percent volume of the business being interstate in character. That is a new aspect of the entire problem. We should be given an opportunity to explore exactly what this means and what its implications are. Otherwise I think it would be a very disorderly procedure.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. ROOSEVELT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, may I first point out to the gentleman from New York that if he will look at the committee bill he will find the reference to percent crossing State lines in many parts of the bill. I would say, therefore, that it has been considered and this is not a precedent.

I yield such time as he may desire to the majority leader, Mr. McCORMACK.

Mr. McCORMACK. Mr. Chairman, of course nobody questions the good faith of my friend from Indiana, but to question the tactical faith is a different proposition. There is nothing new about this; it has happened consistently in many bills coming before the House. As a matter of fact, the Ayres-Kitchin substitute was introduced after the committee reported out the bill. Another illustration is the Griffin-Landrum substitute to the Fair Labor Standards Act when that bill was under consideration. In this instance the gentleman from Oklahoma advises the Members of the House of the introduction of his bill and what it constitutes, in order that the Members may be alerted.

When the bill is read under the 5-minute rule, it would be perfectly proper for him or anyone else who is recognized to offer such a bill as a substitute. Instead of doing that the gentleman has told us what he proposed to do in order that the House might be advised of the content of the bill he has introduced and of the changes in the bill as compared with the bill reported out of the committee. The reason for that is because undoubtedly the fight tomorrow will be between this substitute and the Ayres-Kitchin bill. I think this manifestation of surprise on the part of my friend from Indiana and the other Republican Members has, to say the least, no countenance at all.

The whole purpose is to advise the membership of the House so that they will know what substitute will be offered on tomorrow. The gentleman from Indiana is too smart a technician not

to realize that we Democrats take the House into our confidence and when they are in control they operate in secrecy.

Mr. HALPERN. Mr. Chairman, I rise in support of H.R. 3935. Anything less than the minimums proposed in this bill and its extension of coverage would be unfortunate. It is a reasonable bill and although I would have liked to have seen the extended coverage made broader as in the legislation which I offered, the passage of this bill will be of great benefit to some 4,300,000 wage earners who are not now covered by minimum wage legislation, to 3 million others who are covered but will receive increases under this proposal.

The American working man has a right to expect a decent and adequate wage standard. It is time for decisive action. Even though the average hourly rate of earnings in American industry in 1959 was in the neighborhood of \$2.20, considerably above the minimum proposed in H.R. 3935, there are still however, some 20 million American workers not protected by minimum wage standards.

Many of these millions are working people whose hourly earnings are far below even the minimum proposed and whose standards of living are necessarily depreciated as a consequence. It is a good portion of these millions, presently beyond the protection of Federal standards, who would be directly benefited by this reasonable legislation.

The step-up wage increase formula is another moderate feature of the bill which deserves commendation. Such provisions are an attempt to reconcile the problems confronted by small businessmen with the public policy of providing decent wage standards for the American workingman.

Beyond the justification of the immediate personal gain, would also be the benefit accruing to our national economy through the creation of an expanded consumers market.

Those whose hourly wage rates would be affected are among the lower income groups in the country. An increase in their take-home pay, even if not great, will yet create a market of considerably expanded proportions because of the sheer numbers involved.

An increase in the consumption of goods in the national interest is intimately related to increasing the consuming power of the lowest income groups in our society. If absorption of the output of our production capacities has become a national necessity, then possession of the means for consuming is just as important. Here is a basic significance of the minimum wage bill and a fundamental reason for the Members of this Congress to back it.

Another beneficial consequence of the enactment of such legislation is its relationship to the development of national standards. Competition among areas of the Nation on the basis of wage differentials is oftentimes exceedingly distressing in terms of human considerations. Where human degradation is involved there is hardly cause for rejoicing. With the elimination of the basing-

point system, the remaining method of attainment of competitive advantage through sweatshop methods would be substantially reduced by enactment of this legislation. National standards play a significant role in restricting this abuse.

Mr. Chairman, the arguments on behalf of minimum wage legislation have been advanced time and again. They concern national economic growth, national economic necessity and self-interest, basic humanitarian considerations, and national advancement toward the objectives of the American ideal.

Mr. ROOSEVELT. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. WALTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE TO EXTEND REMARKS

Mr. ROOSEVELT. Mr. Speaker, I ask unanimous consent that all Members may have permission to extend their remarks in the RECORD at the conclusion of general debate today.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mrs. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may be permitted to sit tomorrow during general debate.

The SPEAKER. Is there objection to the request of the gentlewoman from Washington?

There was no objection.

CORRECTION OF ROLL CALL

Mr. ANFUSO. Mr. Speaker, on roll-call No. 23 I was present and voted "yea," but my vote is not recorded. I ask unanimous consent that the RECORD be corrected accordingly.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

GREEK INDEPENDENCE DAY

(Mr. CONTE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. CONTE. Mr. Speaker, on this March 25 our staunch and loyal ally Greece and Greco-Americans commemo-

rate the 140th anniversary of independence day. In 1821 the courageous people of Greece after an arduous struggle achieved their independence from the Ottoman Empire. In that famous war, the great British poet Lord Byron gave his life in the cause of freedom.

Without a doubt, Greece can be called the wellspring of Western civilization. The debt owed by all men to the titans of thought spawned by this little nation, is incalculable. Our concept of democracy, indeed the word itself, is of Greek origin. To every field of intellectual endeavor the Greeks have left an indelible mark. Such giants of the intellect as Aristotle, Plato, Eratosthenes, Euclid, Archimedes, Pythagoras, Euripides, Hippocrates, Democritus, and so many more. Indeed, our Western World, its concepts, ideals, culture, and bodies of knowledge have had their origin in ancient Greece.

It is right, therefore, that we who are heirs to be fundamentals and essentials of a civilization given us by the Greeks, should join with them in this celebration.

In our time we have seen the same spirit and courage which the Greeks displayed at Thermopylae manifested once again as they resisted the hordes of an invader in 1941.

A nobility of spirit and ideals, a fierce love of independence, and a dedication to industriousness have characterized the people of Greece and their descendents in America. Today, they stand with us in the identical beliefs in the dignity of man, his freedom, and the rights of self-determination. They are an integral and vital part of NATO. However, they are not only physical allies of the United States but spiritual as well. For we two nations are based on the same basic foundations given to us by their ancient progenitors.

It is indeed a pleasure to know that we can celebrate this occasion with a feeling of joy. That we can join our sentiments to those of the Greek nation, the Greco-Americans, to commemorate independence day in a spirit of freedom, mutual respect, and with a firm confidence in a future of growth and progress.

PRESIDENT KENNEDY DIRECTS DEFENSE DEPARTMENT TO INCREASE SMALL BUSINESS' SHARE OF DEFENSE CONTRACTS

(Mr. EVINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVINS. Mr. Speaker, all Americans should be happy in that our Nation, under the leadership of President John F. Kennedy, has an administration dedicated to the proposition that what is good for small business is good for America.

At the President's latest press conference, on March 15, 1961, the very first thing he said was that the Secretaries of the military departments have been instructed to take steps to provide a greater percentage of defense contracts for small business. This Presidential directive is now being implemented through affirmative action.

The President then pointed out that contracts for small business awarded by the Defense Department in fiscal year 1960 amounted to \$3,440 million, or only 16 percent. In the President's words, "we are going to try to increase that by at least 10 percent." According to the most recent figures released by the Department of Defense, prime contract awards to small business firms in December 1960, dropped to an alarming low of only 14 percent of the total. This pathetic percentage of awards to small business is emphasized by the fact that the available statistics from fiscal year 1954 reflect a decline from a high of 25.3 percent in 1954 to this dangerously low level.

I have had the privilege and honor of serving as chairman of Subcommittee No. 1 of the Select Committee on Small Business of the House of Representatives, and during the past session of Congress, the subcommittee has studied the organization and operation of the Small Business Administration. As is well known, that agency was established by the Congress, not only for the purpose of rendering financial aid and assistance to small business concerns, but also to be of service to them in the area of Government procurement matters. Thus, joint determinations are made by the SBA and other Government agencies to set aside proposed procurements by the Government, in whole or in part, exclusively for small business concerns. Of course, other forms and types of assistance are supposed to be rendered to small business, by not only the SBA, but also by the small business divisions of each branch of the military services.

I feel that in the light of investigations and public hearings of the House Small Business Committee, facts have been uncovered which clearly indicate that the best interests of small business, and, I might add, of our country, were not being promoted by the prior administration's predilection and favoritism for big business and vested interests.

Small wonder, therefore, that our Nation witnesses a sagging economy. The figures, according to Dun & Bradstreet, show an alarming increase of bankruptcy and business failures. Statistics do not lie. I submit that there must be a reason for this great mortality among small businesses.

The October 1960, total of small firms' adversities projected on an annual basis, reached a postwar record of 65 per 10,000 of listed business population—the highest failure rate since 1939.

I do not want to dwell on this gloomy picture, but it gives me pleasure to have seen reports from leading economists that this business recession has now reached bottom, and that the future looks bright indeed for America's economy. There appears to be no doubt that brighter days lie ahead because a new Democratic administration is now in Washington to guide the destinies of our great Nation to new frontiers of achievement.

The final report of the House Small Business Committee of the 86th Congress reported that one of its studies revealed

that the percentage of prime contracts from the Department of Defense to small business declined, and no significant effort was made to stop that decline.

Of particular significance was the President's cognizance of the importance of research and development to our defense posture, and in this vital area he also stated that provision will be made for increasing small business participation. All will welcome President Kennedy's words in this area.

Small business today, as well as in the past, has played a vital role in the maintenance of active competition, upon which our economy is based. The small firms perform great services in the area of innovation and stimulation of the economy by the development of new ideas, new products, and new processes.

It is the declared policy of the Congress that the Government should aid and protect, insofar as possible, the interests of small business, in order to preserve free competitive enterprise and to insure that a fair proportion of contracts for property and services for the Government be placed with small business concerns.

I feel confident that the new Administrator of the SBA, Mr. John E. Horne, will provide the long needed leadership to make that agency an effective instrument on behalf of the small business segment of the American economy.

At this point, I wish to reiterate what has been stated many times. We are not against big business, but we are in favor of permitting small business to survive, and to give it an opportunity to compete on equal terms with others. America grew great on private enterprise and on the initiative of the countless millions of small businessmen. It is important that we foster policies to protect small business because if and when small business disappears, then our free enterprise system will collapse.

I commend the President on his direction in this field to promote private enterprise and small business economy.

HEALTH SERVICE PROGRAMS

Mr. RHODES of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES of Pennsylvania. Mr. Speaker, I am introducing, for appropriate reference, a bill to assist voluntary nonprofit associations offering prepaid health service programs to secure necessary facilities and equipment through long-term, interest-bearing loans.

As my colleagues are aware, I have long been concerned with the problem of how the best of modern American medicine can be made available to all Americans. I am persuaded that one of the most promising developments toward this end lies in the vast expansion of medical group practice, particularly when group practice is associated with comprehensive prepayment plans.

Progress in medical science has made medical practice much more complicated. Fifty years ago it was possible

March 4, 1968

8. ELECTRIFICATION; FORESTRY. Sen. Gruening inserted an Alaska Legislature resolution urging enactment of legislation to authorize the construction of the Crater-Long Lakes division of the Snettisham hydroelectric power project in the Tongass National Forest, Alaska. pp. 4450-1
Sen. McGee inserted his exchange of correspondence with the Interior Department concerning a reexamination of the future power revenue potential of the upper Colorado River storage project. pp. 4464-5
9. PEACE CORPS. Sen. McGee inserted an editorial commending the President's action in establishing a Peace Corps. p. 4475
10. CONSUMERS. Sen. Neuberger urged that more consideration be given to the interests of the American consumer and inserted several items on this matter. pp. 4476-7
11. FARM LABOR. Sen. Holland criticized the showing in England of the film, "Harvest of Shame," depicting certain working and living conditions of migratory farm workers, and inserted several items regarding this matter. pp. 4477-80
12. LEGISLATIVE PROGRAM. Sen. Mansfield announced that the third supplemental appropriation bill will be considered on Mon., and the sugar bill will probably be considered on Wed. p. 4480
13. ADJOURNED until Mon., Mar. 27. p. 4481

HOUSE

14. MINIMUM WAGES. By a vote of 340 to 78, passed with amendments H. R. 3935, to amend the Fair Labor Standards Act and increase the minimum wage to \$1.15 an hour. pp. 4489-4530

Agreed to the following amendments:

By Rep. Ayres, 216 to 203, which was an amendment in the nature of a substitute for the bill as reported and amends various provisions of the Fair Labor Standards Act and provides for an increase in the minimum wage to \$1.15 an hour instead of a gradual increase to \$1.25 an hour (pp. 4489-4528). This amendment was earlier agreed to in the Committee of the Whole by a vote of 206 to 162 (p. 4528).

By Rep. Herlong, 161 to 133, as an amendment to the Ayres amendment to provide that "the transportation of the harvest crew to and from the farm and the transportation of the just-harvested commodities to the first place of packing or processing within the same State would be included within the agricultural exemption" under the definition of "agriculture" in the Fair Labor Standards Act of 1938. p. 4523

Rejected the following amendments:

By Rep. Albert, 185 to 186, which was in the nature of a substitute for the Ayres amendment and which would have changed the definition of enterprises engaged in commerce or in the production of goods for commerce, provided for a gradual increase in the minimum wage to \$1.25 an hour, would not require the payment of overtime compensation to newly covered employees, would not change the present act's overtime exemption with respect to seasonal industries and the first processing of certain agricultural and horticultural commodities, and would exempt from the act's minimum wage and overtime provisions any employee of a retail or service establishment which is primarily engaged in the business of selling farm implements. pp. 4514-28

By Rep. Martin, Nebr., as an amendment in the nature of a substitute for the Ayres amendment to strike out all language of the Ayres amendment except for the provision providing for an increase in the minimum wage to \$1.15 an hour. p. 4528

Rejected, 196 to 224, a motion by Rep. Hiestand to recommit the bill to the Education and Labor Committee. pp. 4528-9

15. DEPRESSED AREAS. As reported by the Banking and Currency Committee, S. 1, the depressed areas bill, includes provisions as follows:

Provides for the appointment by the President of an Area Redevelopment Administrator in the Department of Commerce under the direction of the Secretary of Commerce.

Establishes an Area Redevelopment Advisory Policy Board to advise the Secretary of Commerce, to be composed of the following members, all ex officio: Secretary of Commerce as Chairman; Secretaries of Agriculture; Health, Education, and Welfare; Interior; Labor; and Treasury; and the Administrators of the Housing and Home Finance Agency and the Small Business Administration.

Directs the Secretary of Commerce to appoint a 25-member National Public Advisory Committee on Area Redevelopment, to be composed of representatives of labor, management, agriculture, State and local governments, and the general public.

Directs the Secretary of Commerce to designate as "redevelopment areas" areas within the U. S. which he determines are among the highest in numbers and percentages of low-income families, and in which there exists a condition of substantial and persistent unemployment or underemployment. In making these designations the Secretary would be required to consider, among other relevant factors, the number of low-income farm families to the total farm families of each of such areas, the relationship of the income levels of families in each such area to the general levels of income in the U. S., the current and prospective employment opportunities in each such area, the availability of manpower in each such area for supplemental employment, the extent of migration from such area, and the proportion of the population in each such area which has been receiving public assistance from the Federal, State, or local government. In making these determinations, the Secretary would be guided (but not conclusively governed) by studies made, and information compiled, by Federal agencies, State and local governments, educational institutions, and private organizations.

Authorizes the Secretary of Commerce to make loans (and participations in loans) and purchase evidences of indebtedness to assist in financing the purchase and development of land and facilities for industrial and commercial use in redevelopment areas.

Provides that the total amount of assistance outstanding at any one time with respect to industrial redevelopment areas shall not exceed \$100 million, and with respect to rural redevelopment areas shall not exceed \$100 million. Establishes certain restrictions and limitations on the financial assistance which may be extended.

Authorizes loans of not to exceed \$100,000,000 at any one time to State or local governments, Indian tribes, or private or public nonprofit organizations for the purchase or development of land for public facilities in redevelopment areas, and for the construction, rehabilitation, expansion, or improvement of public facilities in such areas. Also, authorizes appropriations not exceeding \$75 million for grants for such public facilities.

Establishes in the Treasury Department an area redevelopment fund of up to \$300 million to be available to the Secretary of Commerce to extend financial assistance to redevelopment areas.

creases are for price supports, Rural Electrification Administration and Farmers' Home Administration loans, the school lunch program and special milk program, and surplus food distribution at home and abroad. These expenditures will raise farm income and increase the use of our surplus agricultural commodities.

Veterans: I am recommending that the Congress enact a selective increase in compensation rates for veterans with the more severe service-connected disabilities, to offset rises in the cost of living since the last increase in 1957 and to adjust rates in some categories which are out of line. My budget estimates include provisions for this purpose.

Budgetary transfer authority: To achieve greater effectiveness and savings in the use of the taxpayers' funds, the heads of the several Government departments and agencies should have the authority to exercise some flexibility in the course of a fiscal year to meet new situations or changing circumstances. Therefore, I am asking the Congress, in enacting appropriations for each department and agency, to provide the necessary authority for the transfer of a modest amount or percentage of the funds and personnel available to an agency head for operating expenses, to be used only as needed to meet unforeseen high-priority requirements, and to be controlled by the Bureau of the Budget through the regular budgetary apportionment process. In this way, the funds appropriated by the Congress can be utilized with the utmost efficiency.

VI. FEDERAL REVENUES

Mention has already been made of the revenue estimates for fiscal 1962 and the necessity for congressional enactment of all measures necessary to produce those revenues. My earlier message on highways contained recommendations for the user taxes needed to assure a satisfactory rate of progress on highway construction at levels previously recommended by my predecessor. This administration will not permit funds for this program to be diverted from general revenues. Other tax recommendations, designed to stimulate modernization of plant and equipment, and to achieve greater tax equity without any material change in overall revenues, will be contained in a subsequent message.

Three additional points are more appropriately contained in this message:

(1) **Postal rates:** The January budget submitted by my predecessor called for an additional \$843 million in postal revenues to eliminate the deficit in that Department's operations. Such an increase must be effective July 1 to close the gap between postal expenditures and postal revenues; and, building on the previous budget, this administration's budget requires an equal amount. I urge the Congress to close this gap; and I have directed the Postmaster General to review carefully and intensively all services and activities of the Post Office with a view toward improving efficiency and reducing costs.

(2) **Tax enforcement:** I want to re-emphasize my earlier request to the Congress for additional funds for the Internal Revenue Service. More and better qualified agents can both increase the collection of Federal revenues and help curb corruption in and out of Government, racketeering and organized crime.

(3) **The debt limit:** My predecessor's message in January, even in assuming balanced budgets in both fiscal 1961 and 1962, pointed to the seasonal pattern of tax collections as necessitating another increase in the debt limit. The permanent debt limit of \$285 billion, presently exceeded, has been superseded by a temporary limit of \$293 billion which expires next June 30.

Inasmuch as the Federal debt will exceed \$285 billion on June 30, a new increase in the ceiling will be required before that date.

I urge the Congress to enact an increase that will provide sufficient flexibility to permit sound management of the debt and of our budget expenditures. I am delaying the specific recommendation until early May so that we may have the advantage of the very latest estimates of revenues and expenditures.

CONCLUSION

This message reviews the current budget outlook and describes my philosophy concerning budget and fiscal policy. We seek to achieve the vigorous and sustained growth of the economy that will make possible a balance in the Federal budget. If we use our fiscal resources wisely, we can make tangible progress toward the achievement of our national and international objectives. Toward this end, I ask the cooperation of the Congress and the American people.

JOHN F. KENNEDY.

THE WHITE HOUSE, March 24, 1961.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

Mr. ROOSEVELT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 3935, with Mr. WALTER in the chair.

The Clerk read the title of the bill.

Mr. KEARNS. Mr. Chairman, I yield 15 minutes to the gentleman from Michigan [Mr. GRIFFIN].

Mr. GRIFFIN. Mr. Chairman, the time has been very short since we were notified late yesterday of the intention on the part of the gentleman from Oklahoma [Mr. ALBERT] to offer a new substitute.

In that brief time, I had an opportunity to examine the so-called Albert substitute as it appeared in the RECORD this morning. It is clear that some details have been removed from controversy. But, the difference in basic philosophy between the committee and the Ayers bill is still with us.

I was pleased to note that the Albert amendment removes an exemption from the committee bill, which would have provided, in effect, that local truck-drivers who are members of the Teamsters Union would be exempt from overtime coverage, but that local truck-drivers who choose not to belong to the Teamsters Union would be covered by the law. This was a particularly bad feature of the committee bill, as it was reported from the committee. It would have put coverage or exemption of the Fair Labor Standards Act, for the first time, upon the basis of whether employees choose to belong to a union or not to belong to a union.

Two principal and major issues still remain to be resolved, Mr. Chairman. First of all, should the coverage of the Fair Labor Standards Act be extended into the retail and service fields and, if so, should it be extended on a dollar volume basis; and, secondly, granting that an increase in the minimum wage to \$1.15 can be justified at this time, does it make sense and is it sound public policy to write into the law an escalator clause which will automatically hike the minimum wage to \$1.25 an hour 2½ years from now. In considering these two basic questions, I believe we should look back, for a moment, and recall the basic philosophy that underlies the Fair Labor Standards Act.

One of the leading proponents of the original Fair Labor Standards Act was the then Senator Black, later Mr. Justice Black of the U.S. Supreme Court.

In 1937, on the floor of the other body, he said:

I believe it was the prevailing sentiment of the committee, if not unanimous sentiment of the committee that businesses of a purely local type which serve a particular local community, and which do not send their products into the stream of interstate commerce, can better be regulated by the laws of the communities and of the States in which the business units operate.

Those of us in Michigan, where manufacturing is a major part of the economy, are concerned about the wage level and working conditions of manufacturing enterprises in other States because the goods we produce compete with goods manufactured in other States. On the other hand, the local drugstore is competing with the drugstore down the block on Main Street or across the street, it is not competing with drugstores in Arkansas, California, or New York. This basic line of distinction was adopted as part of the underlying philosophy of the Fair Labor Standards Act.

Mr. SANTANGELO. Mr. Chairman, will the gentleman yield for a question?

Mr. GRIFFIN. Not now, but later if I have time.

It should be kept in mind that without extending regulation into all sectors of the economy, exempted segments such as retailing and service are, nevertheless,

less, indirectly affected by the fact that the Federal law does apply to manufacturing.

If the committee bill or the Albert substitute becomes law, Congress will be laying the foundation for extending Federal wage-hour controls to every segment of the economy, large and small.

Recently, Secretary of Commerce Hodges appeared before a House subcommittee and testified, in part, as follows:

I am for the dollar volume the way it is put because I think that you can get a bill that way and I think it will cover that many people. I think if you put it down at a very lower figure, you will get that many more people against it and they will be fighting it.

Mr. AYRES. Aren't those people who will be fighting it fighting it on the basis that they would be affected and, just like everything else, if it doesn't affect you, you are for it, but what concerns many of us very deeply is, as Mr. Suffridge said, according to his point of view, this is a step in the right direction. You have a million dollars this year, \$500,000 the next year, \$250,000 the next year, and then eventually you are covering every little corner grocery in all of the States of the Union.

Secretary HODGES. Mr. AYRES, I will accept your position on it.

The basic philosophy of the Ayres bill is different. The Ayres bill proceeds on the theory that Senator Black was correct when he said that retail and service businesses of a purely local type which serve a particular local community should not be controlled by the Fair Labor Standards Act.

But whether a retail business is purely local and serves a local community can not be determined simply on a dollar volume basis. The theory of the Ayres bill is that if there are businesses in the retail field which are not purely local in character, and which perhaps should be subject to Federal control, they are the chain-type retail stores operating across State lines.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. GRIFFIN. Not at this time, but later.

Purely local businesses which are managed and controlled locally are subject to local influences and local policies. On the other hand, the multistate chain retail operations are controlled by absentee management. Dollar volume is not a meaningful standard. It is an arbitrary, unfair, and discriminatory standard. Applying such a standard would mean that a retail establishment locally controlled and locally managed on one side of the street doing a given volume of business will be covered, while his competitor across the street, locally controlled and locally operated, will not be covered.

In the RECORD this morning there appears information placed there by the gentleman from Michigan [Mr. O'HARA]. He has set forth lists of businesses that would be covered under the Ayres bill, a long list of stores that would be covered, and a much shorter list of large stores, such as J. L. Hudson in Detroit, for example, which would not be covered under the Ayres bill. Let me say that the large stores locally owned and local-

ly controlled, doing a million dollars or more, in almost every case are paying in excess of the minimum wage, and if they are not they are the very enterprises in the retail field which are subject to union organization.

In the last analysis, so far as extension of coverage is concerned, a question of basic philosophy is involved and is at stake; the issue is whether or not we should adopt legislation today which will lay the groundwork for ultimately extending Federal wage and hour controls to all segments of the economy.

Assuming that an increase in the minimum wage to \$1.15 per hour can be justified now, and I believe it can, we must also decide today whether it is wise public policy to write into a law an escalator provision which will automatically increase the minimum wage to \$1.25 an hour, not today, or next year—but 2½ years from now.

The advisability of such an escalator provision was under consideration in this House last year at a time when the economic situation, I might say, was much brighter than it is today. Then the Department of Labor said:

Unless economic conditions are very favorable, substantial increases in the committee bill might well result in substantial curtailment of employment.

As recently as January 19, of this year, just before he left office, the then Secretary of Labor Mitchell, who certainly cannot be described as an ultra-conservative, transmitted to the Congress the annual report of the Department of Labor which is required under section 4(d) of the Fair Labor Standards Act. In part, it says this:

The Department concludes it would be unwise to adopt another increase in the minimum wage with an impact greater than that of the \$1 rate, because of the danger of substantial curtailment of employment. It was estimated that an increase to \$1.10 or \$1.15 would have an impact similar to that of the increase from 75 cents to \$1.

These are some statistics that I think are worth having in mind when we look at this difficult question.

During the period between 1950, when the 75 cent an hour minimum wage went into effect, and 1956, when the \$1 minimum wage went into effect, with a wartime economy, the average hourly rate in manufacturing rose by 32 percent. It is interesting to note that since 1956 the average hourly rate in manufacturing has risen by only 19 percent.

Since 1956, when the \$1 minimum rate went into effect, the cost of living has gone up 11 percent. Since 1956, the output per man hour of productivity has gone up by 13 percent.

I think these figures give some idea as to why it makes sense at this time to support an increase in the minimum wage of 15 percent to \$1.15. Now, we have no crystal ball to look into the future 2½ years. We have no way of determining now whether an increase to \$1.25 can then be justifiably supported. I would say this, as far as I am concerned, coming from a northern high wage State, if \$1.25 minimum wage could be justified now, I am in favor of putting it into effect now. However, all

responsible authorities, including Secretary of Labor Goldberg, agree that an increase to \$1.15 an hour, only, can be justified at this time or in the foreseeable future. In a letter to the House committee the Secretary of Labor specifically requested that we not go any further than \$1.15 at this time, and he specifically requested the \$1.25 increase be postponed for 2 years and 4 months after the bill becomes law. If, as Secretary of Labor Goldberg requests, we should not raise the minimum to \$1.25 until nearly 2½ years from now, then I do not think we should write it in the bill at all, and we should go only to \$1.15 at this time.

During the last week President Kennedy called together his new Advisory Committee on Labor-Management Policy. He has made a number of statements indicating that he is concerned about holding the line on wages and prices. He has indicated a considerable concern about the dangers of setting off a wage-price spiral. Well, that if we are sincere in that objective, then I do not think it is very good public psychology to write into a law today an escalator provision which provides for \$1.25 nearly 2½ years in the future.

What would this do? Well, it would do nothing now for the low paid, unorganized employee who gets less than \$1.25 per hour. It would, however, provide a psychological peg for those union leaders who seek to use the wage-hour law as the base for demanding higher wages up and down the line. Such irresponsible action would contribute to a general cost-price push.

Once such an escalator provision is written in, sure, we could take it out. But let us face it. Regardless of the economic circumstances, 2½ years from now, it would be very difficult, if not impossible politically, to take it out, even though it might be wise public policy at that time to do so. Would it not be much sounder and wiser to put the \$1.15 into effect and delay further action until the next Congress. If the economy can absorb it, then we should put the \$1.25, or even more, into effect, if it makes sense at that time.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. GRIFFIN. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. I would like to say that I am in thorough agreement with the gentleman from Michigan in connection with this escalator clause, but I would like to ask him about a statement made by the President of the United States last night at a press conference. I did not have the opportunity to see the telecast, but according to this morning's paper he made two statements, and I wonder if the gentleman would care to comment on them. He said:

I find it difficult to know why anyone would oppose seeing somebody by 1963 paid \$1.25 in interstate commerce.

And at a later point:

I think that anyone who is paid less than that must find it extremely difficult to maintain themselves and their families.

My question is whether that is the issue, whether we are talking about the amount sufficient to maintain a family; and if that were the issue, whether we might not well consider an increase beyond \$1.15. I should like to have the gentleman comment on that statement.

Mr. GRIFFIN. Mr. Chairman, I think the gentleman has made a very good point. Many of the arguments on this issue obviously have been emotional arguments which are not based upon reason. Yesterday, as the gentleman from New Jersey [Mr. FRELINGHUYSEN] indicated, the President said that he did not see how a person could maintain a family on \$1.25 per hour.

But that is not the issue with which we are faced here today. If that is to be the basis upon which we are legislating the minimum wage, then I agree that obviously a family cannot be supported decently on \$1 or even \$1.25 per hour. If that is the basis upon which we are legislating, then perhaps the minimum wage should be raised to \$2.25 per hour.

The fact is that we are legislating on the lowest wage that can be paid under any circumstance to the marginal worker, the unskilled worker, the newcomer to the labor field, the oldster, the wife who works part time to supplement the family income, and the person who cannot get a job any place, if the minimum wage is boosted too high.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. GRIFFIN. I yield to the gentleman from North Carolina.

Mr. JONAS. I have a question along the line of that asked by the gentleman from New Jersey [Mr. FRELINGHUYSEN]. I intended to ask this question later in the debate, but I think this is a good time to clear the matter up. The New York Times and the Washington Post of today quote President Kennedy as having stated in his news conference last evening as saying that he found it difficult to understand why anybody should be paid less than \$1.25 an hour if he worked for any business "which makes over \$1 million a year."

My question is, does the bill in providing for a \$1 million test refer to \$1 million of net income, which would be implied from President Kennedy's statement quoted in the press today, or does the bill say \$1 million in gross sales?

Mr. GRIFFIN. It is gross sales.

Mr. JONAS. Is there not a wide difference between "making a million dollars" and having gross sales of a million dollars?

Mr. GRIFFIN. Very definitely there is. I can only assume that the President must have misspoken when he made that statement. But there is a very great difference.

Mr. Chairman, while emotional arguments may have great political appeal, we must not legislate on that basis. I believe that we should bring the minimum wage up to date. I am for an increase to \$1.15 an hour. But at the same time we should be careful not to push too far, for if we do we will be legis-

lating inflation, we will be legislating further difficulties with respect to the balance-of-payments problem, we will be legislating an upward thrust in the wage-price spiral, we will be legislating unemployment at a time when unemployment is already recognized to be our most serious domestic problem.

Let us keep in mind that an increase of any amount in the minimum wage means nothing to the worker who is unemployed. So long as the Government cannot legislate, or cannot guarantee, a man a job, neither can the Government guarantee that man a wage—even a minimum wage.

Mr. SANTANGELO. Mr. Chairman, will the gentleman yield?

Mr. GRIFFIN. I yield to the gentleman.

Mr. SANTANGELO. I was very much interested in the gentleman's assertion that we should have competition between the States so far as the minimum wage is concerned. I was interested to know whether in the gentleman's great State of Michigan they have a statutory minimum wage for employees in the retail trade.

Mr. GRIFFIN. We do not at the present time; perhaps we should have such a State law. I will say that, comparatively, the retail employees in our State are well paid, particularly in the large retail businesses that gross over \$1 million, the only ones which would be covered under the committee bill; stores such as the J. L. Hudson Co., Crowley & Miller, and so forth.

Mr. SANTANGELO. Does the gentleman contend that 65 cents an hour is being well paid? Or is it \$1 an hour?

Mr. HOFFMAN of Michigan. In our State Walter Reuther and Gus Scholl fix the wages. They fix them so high that our manufacturers and those who meet a payroll can no longer do business.

Mr. SANTANGELO. The gentleman knows there is no minimum wage in Michigan.

Mr. ROOSEVELT. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. HOLLAND].

Mr. HOLLAND. Mr. Chairman, the real issue before this House is not the raising of minimum wages. I only wish it were.

The real issue is whether in this Nation—the richest in the world—we can afford to allow millions of our fellow citizens to continue to live in abject poverty for reasons over which they have no control.

These citizens—and their wives and children—are no less deserving of a decent standard of living than you or I.

Actually, the bill before us does not raise the wages at all. It merely tries to keep the poorest of our neighbors from falling still further behind in their already critical conditions of poverty. This is because—in recent years—we have witnessed a relentless increase in the prices these unfortunate people must pay for the necessities of life, and, at the same time, growing unemployment threatens even their own low-paid jobs.

We must remember, too, that the recession serves as an albatross around the

necks of these poor souls, for as long as millions of able-bodied men are rusting in forced idleness, there is no chance that economic forces will permit the wages of these unfortunate people to rise.

Many arguments have been raised against attempts to help these people by raising their minimum wages. All of these arguments are known to be false. In fact some have been exposed as fallacious for nearly 200 years.

One such argument is that higher wages cause unemployment.

Only yesterday, the President's Council of Economic Advisers released an exhaustive study to show how untrue this old argument is.

The study shows absolutely no correlation between wage rates and unemployment. For example, average hourly wages in the printing and publishing industry are \$2.77 per hour—the fourth highest of all industries. Yet, this industry's unemployment rate is only 3.6 percent, or 19th out of the 21 leading industries in the Nation.

On the other hand, hourly wages were only \$1.56 in the clothing and textile industries while the jobless rate in this industry was 10.5 percent, the second highest of the 21 leading industries.

I could go on quoting similar statistics and refuting, over and over again, the old wornout arguments against extending the hand of help to the unfortunate, but time does not permit. Besides, we are not dealing in statistics and ratios and theories anyhow, even though all of these support the need for raising minimum wages.

We are dealing with human beings, with men like you and me, with wives and children and hopes for their future.

There is no more reason why industries should be allowed to pay starvation wages in exchange for the hard work of their employees than there is reason for coal companies to send children down into the pits to work, as they once did, or for railroads to operate without any safety devices to protect their workers against serious accidents.

When child labor laws were being debated, management people claimed they would go out of business unless they could continue to employ children for a few pennies a day. But, the laws were passed and the industries survived and grew.

When safety legislation was being debated, these same old arguments were raised again, but, the laws were passed, and again the industry survived and became stronger than ever before.

Now we are faced with a similar situation, a bill to raise the minimum wage by 25 cents an hour, barely enough to offset the rising prices of the last few years, and to extend its coverage to a few more of those whose conditions are not unlike those whom Victor Hugo, in his famous novel of the French Revolution, referred to as *Les Miserables*, the "miserable ones."

Are we going to take this opportunity to help the helpless?

Or, are we going to follow the paths of least resistance and let someone else, meaning no one else, worry about these millions of our fellow Americans?

I think we can do better.

We can pass this minimum wage bill which is, as its title indicates, a minimum. It is barely that.

We not only can pass this bill—we must pass it—or else forever regret our failure to do what it was within our power and grasp to do; that is, to toss at least a few crumbs from our great storehouse of wealth to those unfortunates for whom an author once said: "There, but for the grace of God, go I."

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. HOLLAND. I yield to the gentleman from Massachusetts.

Mr. McCORMACK. I want to congratulate the gentleman from Pennsylvania [Mr. HOLLAND] on the able address he has made. One of my pleasures in serving here in the Congress has been the friendship that has developed between the gentleman from Pennsylvania and myself. He is one of the great progressives of all the years I have served in the Congress.

Mr. HOLLAND. I thank the gentleman.

Mr. KEARNS. Mr. Chairman, I yield 15 minutes to the gentleman from Arizona [Mr. RHODES].

(Mr. RHODES of Arizona asked and was given permission to revise and extend his remarks.)

Mr. RHODES of Arizona. Mr. Chairman, most of us here have given the legislation before us a great deal of thought and study. We have been over this ground in the 86th Congress and we were promised in the election campaign last fall we would have to go over it again in the 87th Congress. The same arguments in support of raising minimum wages and extending coverage into every corner of private enterprise are being repeated and the criticism and objections which were brought out last year are being raised with equal insistence today. A year ago I was convinced that to raise the minimum wage and to extend its coverage would have harmful effects upon the Nation's economy. I was also convinced that to do so would damage rather than benefit the individual men and women being considered. It would reduce employment and raise the cost of living, wiping out some businesses and increasing inflation. What was true a year ago is true today. But, Mr. Chairman, the economic condition of the country is not as vigorous today as it was a year ago. What was unwise then, and the Congress apparently considered it unwise by rejecting the bill, would be even less wise now. It is inconceivable to me that anyone who is aware of the economic soft spots in the country can give serious consideration to a bill which may create more soft spots. I hope the economy is now at the point of an upswing, and I know every Member here hopes that this is the situation. But, we cannot be sure. It is certainly no time to give the economy another kick backward. With the unemployment problem facing men and women in many parts of the country, what justification is there for raising wages by legislative fiat and creating more unemployment?

There can be no doubt at all that unemployment may come from this bill if it becomes law.

I have had scores of letters come across my desk in the past several weeks from businessmen—most of them small businessmen—with figures from their own books showing that they will be forced to lay off employees if we pass this bill.

Economic logic alone will tell you that to increase the cost of labor by any amount at all will not add a single job to a payroll anywhere in the United States, but it may force employers all along the line of marginal operations to curtail or go out of business.

Mr. Chairman, the bill before us today does even more damage to the economy than increase unemployment. It will also increase the cost of living and add to the corrosive effects of inflation, cutting a little deeper into the limited and fixed incomes of millions of people.

The initial cost to industry alone for a \$1.25 minimum wage with extended coverage would be nearly \$2 billion. But this is only the beginning. As low wage jobs go up to \$1.15 or \$1.25, wages on up the scale are put under pressure to be raised also. This is particularly true when the cost of goods and services for wage-earners has been forced up. By the time the rippling effect of this bill has gone clear through the national economy, the cost of labor for everything we produce would be substantially increased.

Such an increase in the cost of labor at this time would have serious effects upon the cost of every product on the American market. This would be bad enough as it affects the ordinary American consumers. But it would be much worse than that.

We all know we are faced with a serious problem in balance of payments and an outflow of gold, caused by the inability of American products to compete with lower-cost foreign products on the world market. For years we have been pricing ourselves out of the world market in just this way—by jacking up the production costs of what we want to sell faster than we increase efficiency and improve production methods. We end up with goods costing so much to produce that they can be undersold even in our own markets.

And now we are considering legislation which would give the whole process another big push. This bill, if it passes, will set off a chain reaction upwards in the cost of labor throughout the entire national economy.

The New York Herald Tribune described the situation several weeks ago in an editorial:

The proposed 25 percent boost would have an enormous cumulative effect on the total wage bill. Differentials have to be maintained, which means an upward adjustment for higher-paid workers as well. This means higher prices, another kick for the inflationary spiral, tougher competition from foreign imports, a further competitive handicap for American exports. It inevitably means that marginal workers will lose jobs and marginal firms will be forced out of business.

I cannot believe that any Member of the House wants this to happen. The

bill under consideration may seem like good politics, but it is bad economics. And in the end it is bad faith to the millions of American wage earners who would be having a few cents put into their pockets on one side, and the same few cents compounded being taken out on the other side.

Mr. Chairman, the minimum wage as it was passed back in the thirties was intended to be that wage on which a man could support his wife, himself, and two children, the average American family, at a subsistence level. I assume that is still the philosophy of the minimum wage. If it is, then we have gotten far afield as far as determining the proper level of the minimum wage is concerned, because in comparing the cost of living when the minimum wage was originally adopted with the cost of living today, by interpolation you find that the proper minimum wage would be somewhere between 96 cents and a dollar. The minimum wage, as you know is now \$1 an hour.

I would suggest that the appropriate committee of this House ask that the Secretary of Labor or some other person designated by the President, or some authority set up by the Congress itself, conduct a survey to find out, if we are still going to use this philosophy, what the proper minimum wage should be in this day and time.

Perhaps a mere mathematical extension does not tell the truth. If it does, then the minimum wage right now is adequate. If it does not, we certainly should find out about it, and enact a proper minimum wage.

I am eager to have a minimum wage which will allow the average family to support itself at a level which will maintain health. I do feel if we are going to change the rules of the game, as I think we have, we had better redefine the rules, then come up with a decent formula, a formula which makes sense, to determine what the minimum wage should be. Certainly trying to legislate wage increases does not make any sense economically. The only way you can have a real wage increase is by increasing the production of the Nation. That is what I want to do, and I think all of the Members of the House want to do that. But this type of legislation has gone far afield from the type of legislation it was intended to be. If we are not careful we can by the continued abuse of this legislation not only hurt the economy but hurt the very people we are striving to help—those on the lowest rung of the economic ladder.

Mr. ROOSEVELT. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. DANIELS].

(Mr. DANIELS asked and was given permission to revise and extend his remarks.)

Mr. DANIELS. Mr. Chairman, I strongly support the minimum wage bill to raise the standards and broaden the coverage of the Fair Labor Standards Act.

The enactment of legislation in this area is long overdue. It is now almost 23 years since Congress passed this law to extend the frontiers of social progress.

Congress invested the law with a noble purpose—to eliminate from the channels of interstate commerce, labor conditions detrimental to minimum standards of living.

Both in terms of the minimum wage it provides and of the employees who come under its protection, the present Act is inadequate as a means for carrying out this purpose. A full-time employee working 40 hours a week, 52 weeks a year at the present minimum wage of \$1 an hour has an annual income of only \$2,080. I know that I do not have to tell you gentlemen how far this sum will go toward the support of a working man and his family today. But I would like to cite some interesting and enlightening statistics for the benefit of those of my colleagues who think that we should not improve this law substantially.

In the fall of 1959, the Bureau of Labor Statistics estimated that a modest level of living in Washington, D.C., for a family of 4 required an income of

\$6,147 a year. The cost of living in many other cities is even larger. It is apparent therefore, that the present minimum wage does not insure even a bare minimum existence.

It is also apparent, Mr. Chairman, that this law must be broadened to cover many additional workers so that our lowest paid workers who now have no minimum wage protection whatsoever will be given some measure of protection.

I would call your attention to the fact that during all the years that have elapsed since this law was passed its coverage has never been extended. In 1955, when the minimum wage was increased to \$1 an hour, nothing was done about extending the law's protection to additional workers. In 1949, when the minimum was increased from 40 cents to 75 cents an hour, the coverage of the act was actually cut back. This retraction in the number of workers covered produced the inequitable result of not only denying a wage increase to those most in need of it but deprived many

workers of the minimal floor under the wages that they previously had.

Mr. Chairman, I have had a study and compilation made of the minimum wage laws of the several States of our Union and the minimum runs from a low of 15.6 cents per hour in one State to \$1.50 an hour in another State.

The failure of some States to enact any law and of other States to update their antiquated and practically useless State laws, has made it imperative for this House to act. I desire at this point to offer this compilation as part of my remarks.

Mr. Chairman, I cannot urge too strongly that we proceed without delay to approve the bill reported by the House Labor Committee. We have already had too much debate and too little action in this area for too long a period of time. I think it is time that we took effective action.

The compilation referred to is as follows:

Minimum wage status of 50 States, District of Columbia, and Puerto Rico

State	Type of law	Employees covered	Basic minimum
Alaska	Statutory	Men, women, and minors	\$1.50 an hour.
Alabama	No law		
Arizona	Wage board	Women and minors	46 to 60 cents an hour for retail and laundry.
Arkansas	Statutory	Females	15.6 cents an hour (\$1.25 a day).
California	Wage board	Women and minors	\$1 an hour for major trades.
Colorado	do	do	60 cents to \$1 an hour by orders for laundry, retail, public housekeeping, and beauty service.
Connecticut	Statutory (also wage orders)	Men, women, and minors	\$1 an hour.
Delaware	No law		
Florida	do		
Georgia	do		
Hawaii	Statutory	Men, women, and minors	\$1 an hour.
Idaho	do	do	75 cents an hour.
Illinois	Wage board	Women and minors	No orders in effect.
Indiana	No law		
Iowa	do		
Kansas	Wage board	Women and minors	No orders in effect.
Kentucky	do	do	20 to 50 cents an hour for major trades.
Louisiana	do	Females	No orders in effect.
Maine	Statutory	Men, women, and minors	\$1 an hour.
Maryland	No law		
Massachusetts	Statutory (also wage orders)	Men, women, and minors	Do.
Michigan	No law		
Minnesota	Wage board	Women and minors	60 cents to \$1 an hour by orders for laundry, retail, amusement, and public housekeeping.
Mississippi	No law		
Missouri	do		
Montana	do		
Nebraska	do		
Nevada	Statutory	Females	\$1 an hour (87½ cents, under 18).
New Hampshire	Statutory (also wage orders)	Men, women, and minors	\$1 an hour.
New Jersey	Wage board	Women and minors	31.3 cents to \$1 an hour by orders for beauty, restaurant, laundry, and retail.
New Mexico	Statutory	Men, women, and minors	75 cents an hour (65 cents service).
New York	Statutory (also wage orders)	do	\$1 an hour.
North Carolina	Statutory	do	75 cents an hour.
North Dakota	Wage board	Women and minors	55 to 75 cents an hour by orders for manufacturing, laundry, dry cleaning, telephone, public housekeeping, and retail.
Ohio	do	do	25 to 90 cents an hour by orders for laundry, hotel, restaurant, and beauty culture.
Oklahoma	do	Females	(Law inoperative.)
Oregon	do	Women and minors	50 cents to \$1 an hour for major trades.
Pennsylvania	do	do	65 cents to \$1 an hour by orders for laundry, hotel, restaurant, and retail.
Rhode Island	Statutory (also wage orders)	Men, women, and minors	\$1 an hour.
South Carolina	No law		
South Dakota	Statutory	Females	\$12 to \$15 per week (by population).
Tennessee	No law		
Texas	do		
Utah	Wage board	Women and minors	75 cents to \$1 an hour by orders for retail, laundry, drycleaning, and restaurant.
Vermont	Statutory (also wage orders)	Men, women, and minors	\$1 an hour.
Virginia	No law		
Washington	Statutory (also wage orders)	Men, women, and minors	Do.
West Virginia	No law		
Wisconsin	Wage board	Women and minors	75 to 85 cents an hour (65 to 75 cents under 16) for major trades.
Wyoming	Statutory	Men and women	75 cents an hour.
District of Columbia	Wage board	Women and minors	57 cents to \$1.10 an hour for major trades.
Puerto Rico	Statutory (also wage orders)	Men, women, and minors	\$1 an hour.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. DANIELS. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. The gentleman clarified one point that I was going to ask him about, I now know which bill he at least is advocating. He suggested that we should approve the committee bill. As I understand, from what developed late in the day yesterday, the Democratic leadership has abandoned the Roosevelt bill and has decided to take the so-called Albert substitute. I wonder if the gentleman has any idea what is in the Albert substitute. At what point is anyone on your side going to demonstrate how that bill might have more advantages than the bill the gentleman prefers?

Mr. DANIELS. I have not had an opportunity to examine the Albert bill, but I propose to do so.

Mr. FRELINGHUYSEN. Is the gentleman proposing to vote against the Albert bill, if there should be an opportunity?

Mr. DANIELS. I cannot answer that question until I have an opportunity of examining the bill.

Mr. FRELINGHUYSEN. Time is running out, I may say to the gentleman. Nobody has had an opportunity to examine it.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. ROOSEVELT. Mr. Chairman, I yield such time as he may desire to the gentleman from Connecticut [Mr. GIAIMO].

(Mr. GIAIMO asked and was given permission to revise and extend his remarks.)

Mr. GIAIMO. I recognize, Mr. Chairman, that my task here is a formidable one. I rise to challenge the greatest of all vested interests; those of the mind. I have listened closely as some of my colleagues express fears about moving ahead, continuing and broadening our tried and tested and, I add, successful minimum wage program. I have heard some pretty shopworn ideas expressed in the process.

John Galbraith, in his book, "The Affluent Society," warns us that "because economic and social phenomena are so forbidding and because they yield few hard tests of what exists and what does not, they afford to the individual a luxury not given by physical phenomena. Within a given range, he is permitted to believe what he pleases. He may hold whatever view of the world he finds most agreeable or otherwise to his taste."

I submit, Mr. Chairman, that unfortunately, some of my colleagues, in their attempts to scuttle the President's program have indulged in such an intellectual luxury. I rather think that if a visitor who knew nothing of modern history were to walk into the gallery and listen to some of the intellectual cliches being voiced in this debate, he would readily believe that the Fair Labor Standards Act is a figment of some radical imagination; that it threatens to tear asunder the framework of our Government; that it threatens to destroy a system of 50 separate and independent States by imposing upon them a national

Government with powers over interstate commerce; and that we have learned nothing since the dismal economists of the 19th century put pen to paper.

Ideas that resist change, that give excuses for political indolence, are always comfortable ideas and readily acceptable. The President asks us to try our thoughts as one would test his muscles on a trampoline, but instead, we are forced to loll on an overstuffed mattress of tired phrases and pet cliches originated years and even a century ago. Perhaps they had vitality at one time, but today, they are tiresomely irrelevant.

The Fair Labor Standards Act was conceived 23 years ago, and it has proven to be very much in keeping with American concepts of governmental power and responsibility. It is constitutional; it has worked; it has increased purchasing power; it has placed a floor under the lower economic groups in our society; it has helped prevent dire poverty and gross economic inequalities in our generally affluent Nation; it has been extended and improved by Republican and Democratic administration alike, and this administration is now asking that we but take the next logical step toward affording the minimum benefits of this tried and tested program to those of our citizens who have thus far been ignored by it.

Contrary to arguments being made here, the President's proposals are not unconstitutional or subversive to our way of life. This Nation is not a confederation of 50 independent States. This Congress, when it exercises the constitutional powers of a national legislature, does so in behalf of the people of this great Republic. We are representatives of these people. We come here to further their interests. I, for one, resent the implication that we are akin to some foreign power, beholden to no American, greedily usurping the power of the people. We speak for the people, and judging by the last national election and by recent public opinion polls, the people like the Fair Labor Standards Act and they want to see it extended. I, for one, intend to speak up for the people of our age and against the dead ideas paraded about on this floor disguised as so-called States rights.

The justification for minimum wage legislation today, as it was 23 years ago, is twofold:

First. Minimum wage legislation recognizes that the existence of low wages tends to debase the living standards of workers enjoying higher wage levels and acts as a drag upon the economy. Substandard wages, in the words of the act, constitute an unfair method of competition in commerce and interferes with the "orderly and fair marketing of goods and commerce."

Second. It attempts to raise the standard of living of those who are at the bottom of the economic ladder and tries to provide these with a minimum standard of living.

Regarding the first, gentlemen, I have heard it said on this floor that wages and hour conditions are matters of purely local concern. This is a convenient and comfortable thought. Everyone wants to be let alone to do as they please. But

we are one nation; our trade and commerce among the States is free and open. It is a simple matter to say that the wages paid in Mississippi should be no concern to the people in Connecticut, but can this be true? The depressive competition we in New England meet from the sweatshops of other areas is as much our concern as the flow of cheaply produced foreign goods into America. We in New England have done a fairly good job of providing our low income workers with minimum wage and working conditions, and we have over the years, increased employment, but we have had to do it in the teeth of unfair competition from regions which drag as an anchor chain upon our Nation's economy. Do you say that the existence of substandard labor in America is no concern to us? When the foot is cancerous, is this no concern to the brain?

In certain areas, efforts to exploit the American worker at the expense of our national economy and the just labor standards of other regions, have been made quite obvious.

The insidious influence of unfair competition among regions and localities is illustrated by a letter from a mayor in a small southern town to a New England manufacturer, reported on page A2768 of the 1955 CONGRESSIONAL RECORD: "Then our wonderful labor," the mayor writes, "98 percent native born, with lower average hourly industrial wages, 6 to 9 cents below other Southern States and from 50 to 95 cents below Northern States."

I submit, gentlemen, this letter underscores the fact that industries competing on the basis of sweated labor are not only out to drag down high wage areas outside of the South, but will just as readily, if given the chance, undercut neighboring towns and cities which already are victims of low wage rates and substandard living conditions.

In a study printed in the CONGRESSIONAL RECORD of April 26, 1955, Dr. Sar A. Levitan, economist with the Legislative Reference Service, wrote:

It should be stressed that increasing the minimum wage would not effectively limit the competitive forces within the economy. Labor costs account only for about a third of total manufacturing cost and the substandard rates form only a minute fraction of total costs in American industry. Substandard wages do not appear to be a proper factor in a dynamic, free, and competitive American enterprise system.

All people of good will welcome the economic opportunities that new industry is bringing to the people of the South. Defense needs make industrial dispersion desirable. National welfare would, however, require that industrial dispersion should bring with it the blessings of our high standards of living to all the sections of the country. Sound economic growth for the Nation as a whole cannot depend upon "run-away" industry from high-wage areas which reestablish the same business on a substandard wage level elsewhere.

A second justification for adopting the President's program is that it will raise the standard of living for those who are at the bottom of the economic scale and try to provide them with a minimum standard of living.

In his news conference yesterday, the President said:

I find it difficult to understand how anybody could object to paying anybody who works in a business which makes over \$1 million a year \$50 a week by 1963. I think anyone who is paid less than that must find it extremely difficult to maintain themselves and their families.

What the President says is obvious. And yet, it appears, there are gentlemen in this House who would do nothing about it although, according to a Bureau of the Census report published in June, 1958, 36.3 percent of our farm and non-farm families had a total money income of less than \$4,000 per year. The 1960 economic report of the President reveals that there are 7.6 million families and single individuals with incomes under \$2,000 per year and the number of low-income families is growing. From 1956 to 1958, the number of families with incomes less than \$2,000 per year increased twice as fast as the total number of American families.

Hold this statistic, and ponder it in the light of another: That in 1960, the Department of Labor estimated that an average of \$6,130 a year is needed by a worker to support a family (wife and two children) at a "modest but adequate" standard of living in major American cities on the basis of prices in the autumn of 1959.

We are in danger of creating the anomalous situation of poverty existing in the midst of affluence, and I say this is a threat to our classless American society. This substandard condition existing side by side with wealth is the real menace to our way of life, not the Fair Labor Standards Act.

What is the cost of this poverty amidst plenty? In terms of social disorganization and frustration among our lower income citizens, the costs can never be measured except indirectly in our budget for courts, jails, police, social workers, etc. The correlation between crime and poverty has not been proven, but the greater prevalence of crime among low-income groups has been established.

We will pay in other ways for ignoring the low-income worker. During the 1957-59 biennium, Connecticut taxpayers alone put up \$16,901,117 to defray general assistance costs exclusive of administration. This money was paid out to aid destitute families in a State that has a decent minimum wage. I wonder what the cost in public welfare, relief, and human suffering can be in other areas.

We are paying for substandard conditions every day in terms of poor health and medical care. An editorial in the New York State Journal of Medicine for September 15, 1949, stated it quite plainly:

What keeps the great majority of people well is the fact they can't afford to be ill.

The proportion of persons who see no doctor during the year is three times as high for families with incomes below \$1,200 as for those over \$10,000, while less than one in five families with incomes below \$1,000 has any health insurance. The cost to our communities will appear again and again in public hospitals, clin-

ics, and free medical care for people who are not being paid a human wage.

I consider it a very minimum wage—

The President said yesterday.

We are talking about a standard for fellow Americans, and millions of them, and I must say I think that it is in the public interest to pass that bill as closely as possible to the House committee bill.

Gentlemen, the President can never be more right. I urge you to consider carefully the cost of not passing an adequate bill this year. Is your State, your community, is America willing to ignore progress and pay the consequent price?

Mr. ROOSEVELT. Mr. Chairman, I yield 15 minutes to the gentleman from Iowa [Mr. SMITH].

(Mr. SMITH of Iowa asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Iowa. Mr. Chairman, I would like to address myself primarily to the so-called jurisdictional or constitutional question. I really do not think it amounts to what has been raised here at all, but I would like to clarify it a little bit to remind the Members of some of the things that I am sure they already know.

Of course, this rests under article I of section 8 of the Constitution, which provides that Congress shall have the power to regulate commerce among the several States. Of course, we all know when you say "regulate," you mean either help to turn it on or turn it off; anything that increases or decreases either one. It does not mean stoppages only. In 1938, when the act was passed, it applied to those persons engaged in competition necessary to the production of goods for commerce.

Now, under this definition there were, of course, several Supreme Court cases, the outstanding one, the leading one, being the Darby case. Under the Darby case the Supreme Court not only held that the Court had the power to go as far as it did in the 1938 act, but it also went forward and said that Congress could even regulate intrastate commerce if it wanted to, so long as it acted within the purview of the doctrine that there was a substantial effect upon interstate commerce.

I am talking now about things that are strictly intrastate. This 1938 act did not do that but the Supreme Court said Congress could do that if it wanted to.

After this, of course, there were several more cases, but it was firmly established that the Congress had acted fully within the purview of the commerce clause. Then along came the Labor-Management Relations Act of 1947 which amended the National Labor Relations Act. This act, of course, is more commonly known as the Taft-Hartley law. The Taft-Hartley law went far beyond anything that had previously been done in extending the jurisdiction under the commerce clause. It went so far as to say that you can even regulate activities that tend—and I stress "tend"—that tend to affect the flow of commerce. It would be thought that this was just as far as anyone could possibly go in stretching the interstate

commerce clause and to date I think it is as far as anyone has gone.

As the gentleman from Georgia said yesterday, the National Labor Relations Board found that their jurisdiction was so extensive under this particular provision that they would not exercise all the jurisdiction that had been given to them. So they established a dollar-volume standard, or some dollar-volume standards, saying that they were not going to exercise all the jurisdiction that has been given to them in every case. They said, "We are just going to assume that in retail cases, where it is under \$500,000 of annual gross volume, there is not enough for us to bother with. We are not going to exercise the jurisdiction we have in that case. This is the dollar-volume test by an agency—not by the Congress, but by an agency."

It has been clearly shown, I think, in several court cases that the jurisdiction or the practical judgment is a matter that is clearly within the authority of Congress and can be determined by the Congress only; but they went ahead, anyway, and determined as an agency how far they should go.

Now we find in the Landrum-Griffin Act that this has been approved, that we have approved an agency's determining their own jurisdiction. All we have said is that they cannot go above \$500,000, they have got to exercise their jurisdiction down to that point. We are leaving it up to them how much lower they want to go in volume or anything else. There is not any specific definition or category. But we have left it to an agency in that act how far they want to go in exercising this jurisdiction.

In this committee bill and in the Albert bill we do not leave it to some agency downtown to determine how far they want to go to exercise their jurisdiction. We write it squarely in the law. The Congress exercises the plenary power they have in determining just what jurisdiction we want. That is the biggest difference between the Landrum-Griffin bill and the particular act that is before us now. We do not leave it to an agency as it was under the Landrum-Griffin Act. We do it right here. We say it is \$1 million a year. We are not going to extend our jurisdiction beyond that. We know we have the jurisdiction to go way beyond that, but we are not going any further than that. That is the biggest difference between the two acts.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. I wonder whether, as a member of the subcommittee which developed the committee bill, the gentleman would enlighten me as to whether he is going to support the so-called Democratic leadership bill, the Albert bill, or the committee bill? I wonder at what point anybody is going to discuss what is in the Albert bill. We have almost completed general debate on the committee bill, and there has been no mention of what is in the Albert substitute.

Mr. SMITH of Iowa. As to which bill I am going to support, I will say that I have not had the opportunity yet to hear the gentleman's very enlightening statement that I am sure he will make soon. I want to hear that before I make my judgment.

Mr. FRELINGHUYSEN. I am certainly not planning to make any statement on the Albert bill. I am waiting for the sponsors of that proposed legislation to explain what is good in it. I have not had the time to examine it, just like the gentleman from New Jersey [Mr. DANIELS]. I think the whole matter ought to be recommitted to our committee for consideration of the various substitutes. Then we could bring it back to the House for its consideration.

Mr. SMITH of Iowa. I think it has been in the RECORD and there has been adequate opportunity to read the RECORD while we have been sitting here.

Mr. FRELINGHUYSEN. Mr. Chairman, which bill is the gentleman planning to back?

Mr. SMITH of Iowa. I will determine that after I hear the gentleman's arguments. I am sure he will enlighten us.

Mr. FRELINGHUYSEN. My arguments will not be on that bill.

Mr. GRIFFIN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Michigan.

Mr. GRIFFIN. Mr. Chairman, first of all let me say that I have been very greatly interested in the gentleman's presentation on the so-called constitutional question. As for me, although I realize that there are many Members of the House on both sides of the aisle who feel that there is a real question of constitutionality involved, I have not put my argument on that basis.

In fact, I am inclined to agree with the gentleman that the present Supreme Court would probably not say that the bill was unconstitutional. I think the question is more one of public policy, how far the Federal Government should go and into what areas.

Let me also address myself briefly to a statement made about the 1959 act, the so-called Landrum-Griffin bill. At the time that bill became law, there were many of us who thought that Congress should adopt standards at that time for application by the National Labor Relations Board. There was not enough agreement as to where that line should be drawn or on what basis it should be drawn, and standards were not adopted. But we did have agreement on one point: that if the National Labor Relations Board is going to decline jurisdiction over a labor dispute, there should be some place for the litigants to go. I do not interpret the 1959 act as putting any approval on standards used by the National Labor Relations Board. We did not pass on the appropriateness of those standards. We said only that there should be a forum; and that if the National Labor Relations Board fails to take jurisdiction of a case, for any reason, then the State will take jurisdiction. In the 1959 act we did not adopt the

dollar-volume test used by the National Labor Relations Board; we did not approve or disapprove of it. Tomorrow, if the Board chooses to do so, it could change its standards, but not because of anything in the Landrum-Griffin Act. In the 1959 act, we said only that the Board could not retreat and refuse to take jurisdiction of a case which it would have handled prior to the 1959 act. Will the gentleman agree with that?

Mr. SMITH of Iowa. I agree with that last statement of the gentleman as he states it. I am glad to hear the gentleman say he thinks there is no argument as to what jurisdiction this Congress has in this field under the interstate commerce clause between the two bills. It is just a matter of how far you want to go. Under the bill I understand the gentleman is supporting, how far we are going is determined according to where the stores are located.

Mr. GRIFFIN. There is lots of controversy among the Members on that issue. I am not putting my argument on that basis. I think it is more a question of what is wise policy for the Federal Government in this particular field.

Mr. CURTIS of Missouri. Mr. Chairman, a point of order. The gentleman has mentioned the name of a Member of the other body.

The CHAIRMAN. Will the gentleman from Missouri specify the words he wants taken down?

Mr. CURTIS of Missouri. The reference was to Senator GOLDWATER by his name.

Mr. ROOSEVELT. Mr. Chairman, may I point out that the gentleman from Iowa never mentioned the name of the Goldwater store in Arizona.

Mr. AYRES. Mr. Chairman, I make the point of order that the gentleman from California did mention the name of Senator GOLDWATER. I would like to have his words taken down.

Mr. HOFFMAN of Michigan. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. HOFFMAN of Michigan. Mr. Chairman, inasmuch as so many are coming in from the outside and from the cloakrooms, I ask unanimous consent to withdraw my point of order.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. ROOSEVELT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ROOSEVELT. Mr. Chairman, do I correctly understand that the rules of the House do not prevent a Member from mentioning a Senator's name as long as he does not mention it in a derogatory manner?

The CHAIRMAN. It is the understanding of the Chair that under the rules of the House, the name of a Member of the other body may not be mentioned in any fashion.

Mr. ROOSEVELT. Then, Mr. Chairman, I ask unanimous consent that my words be expunged from the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CURTIS of Missouri. Mr. Chairman, I made a point of order.

The CHAIRMAN. The gentleman will state it specifically.

Mr. CURTIS of Missouri. The specific point of order is that the words of the gentleman in reference to GOLDWATER, which was obviously to Senator GOLDWATER, be taken down.

Mr. SMITH of Iowa. Mr. Chairman, may I point out that I merely mentioned the name of the Goldwater Department Store in Arizona. I did not mention anybody's name whatever.

The CHAIRMAN. For what purpose does the gentleman from New York [Mr. POWELL] rise?

Mr. POWELL. Mr. Chairman, a point of order. The gentleman from Missouri is out of order because he just mentioned the name of Senator GOLDWATER.

Mr. HOFFMAN of Michigan. Mr. Chairman, I make the point of order that it is now in order to read the words.

Mr. CURTIS of Missouri. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CURTIS of Missouri. Should not the gentleman from Iowa take his seat while the words are being taken down?

The CHAIRMAN. If the gentleman from Missouri insists the Chair will ask the gentleman from Iowa to take his seat.

The Clerk will report the words to which objection is made.

(The Clerk reported the words objected to.)

The CHAIRMAN. The Committee will rise.

Accordingly the Committee rose, and the Speaker resumed the chair.

Mr. PELLY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. We must first have the report from the Committee of the Whole House on the State of the Union.

Mr. KEOGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes, certain words used in debate were objected to and on request taken down and read at the Clerk's desk, and he herewith reported the same to the House.

The SPEAKER. The Clerk will report the words objected to.

(The Clerk reported the words objected to.)

Mr. PELLY. Mr. Speaker, a point of order.

The SPEAKER. The Chair is ready to rule on the point of order.

The Chair thinks that a reference to a Member of the other body by name is

a violation of the rules of the House, and so holds.

Mr. ROOSEVELT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ROOSEVELT. Would it be in order at this time to ask unanimous consent that the gentleman from Iowa be allowed to proceed in order?

The SPEAKER. It would.

Mr. KEARNS. Mr. Speaker, I object to that.

The SPEAKER. Let the Chair first state the request.

Is there objection to the request of the gentleman from California that the gentleman from Iowa be allowed to proceed in order?

Mr. CURTIS of Missouri. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CURTIS of Missouri. The ruling means that these words will be stricken from the RECORD?

The SPEAKER. If a motion is made to strike them from the RECORD.

Mr. CURTIS of Missouri. I would make such a motion and then I would not object.

The SPEAKER. The question is on the motion.

The motion was agreed to.

The SPEAKER. Is there objection to the request of the gentleman from California that the gentleman from Iowa be allowed to proceed in order?

There was no objection.

The SPEAKER. The Committee will resume its sitting.

The CHAIRMAN (Mr. WALTER). The gentleman from Iowa will proceed in order.

Mr. SMITH of Iowa. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SMITH of Iowa. Is it in order to say that this has been a long day due to the fact that there are three Senators in the other body named Long?

The CHAIRMAN. That is not a parliamentary inquiry.

The gentleman will proceed in order.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Pennsylvania.

Mr. DENT. What is the name of the chain of stores in the State of Arizona that the gentleman was referring to?

Mr. SMITH of Iowa. I think that was all I did, was to mention their names.

Mr. DENT. What is the name of the chain?

Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DENT. If a trade name or the name of a product bears the same name as a Member of the Senate, are we forbidden from mentioning that particular product or chain or store, or whatever the item may be?

The CHAIRMAN. The Chair will pass on that question when it arises. The Chair may say that the gentleman's inquiry is not a parliamentary inquiry.

The gentleman from Iowa [Mr. SMITH], will proceed in order.

Mr. SMITH of Iowa. Mr. Chairman, now as to the bill I was referring to, we all know that in this bill it determines how far we are going to exercise our jurisdiction according to the number of stores that happen to be located in two or more States.

Let me give this as an example: Suppose I own two stores in Pennsylvania that sell rocks picked up in Gettysburg, and I own three stores in Arizona that sell petrified rocks picked up in Arizona. I have five stores in two States. There is no interstate commerce, there is no commerce between the two stores. I am the owner. I am covered under the Ayres bill. What kind of a basis is this? It is stretching the interstate commerce clause far beyond any degree it has been stretched before. It is the Ayres bill that stretches the interstate commerce clause farther than it has even been stretched before. May I say to the gentleman from Nebraska and the gentleman from Indiana, who indicated they did not want to vote for a bill that regulated wages at all, that they can vote for the Ayres bill. It does not regulate wages. There is no basis in the bill that requires the carrying of any of these goods across State lines. In the committee bill and in the Albert bill it is required that one or more employees in the establishment must be working on goods produced for commerce or handled in interstate commerce. That is a primary and preliminary requirement. This, of course, has been litigated many times, and we are clear as to what it means. It goes ahead and says: even though an employee or employees handled these goods, we are not going to regulate it unless you do more than a million dollars in volume of sales a year. It seems to me that the bill which tortures the interstate commerce clause, that stretches it far beyond any point it has been stretched before, is the Ayres bill or the Kitchin bill. These are the bills that go into new fields rather than the bill that is before us as the committee bill, or the Albert bill.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Pennsylvania.

Mr. DENT. As I understand the gentleman's discussion, he holds that a chain of stores with five or more in the chain operating in two or more States, regardless of volume of business, would be covered under this act?

Mr. SMITH of Iowa. That is the Ayres bill. We may take an example from the record of many department stores. We had better not name them. Anyway, there are a number of department stores that do hundreds of millions of dollars of business that are not covered, while a lot of other little businesses are covered.

Mr. DENT. I was trying to bring out the point of the chain. If the chain operates in two States or more, regardless of volume of business, they are covered. Here is a chain in the State of New York by the name of H. C. Bohok with 185 stores doing a business of \$160 million. Would they be covered?

Mr. SMITH of Iowa. Yes.

Mr. DENT. The gentleman says they would be covered?

Mr. SMITH of Iowa. No, If they do not have any stores in another State even though they move goods in interstate commerce.

Mr. DENT. Take Wiebolds in Chicago with 11 stores; would they be covered? They only operate in Illinois.

Mr. SMITH of Iowa. If they only operate in Illinois, they would not be covered.

Mr. DENT. The three stores the gentleman referred to in Arizona, the Goldwater stores, would they be covered?

Mr. SMITH of Iowa. They would not be covered.

Mr. DENT. They do a volume of \$6 million.

Mr. AYRES. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Ohio.

Mr. AYRES. Would you mind telling us what the average wage of these Goldwater stores in Arizona is?

Mr. SMITH of Iowa. I do not know the average wage, but I do know that it is not true that all big chains pay over the minimum wage.

Mr. AYRES. For the RECORD I would like to say that this particular chain referred to paid far above the minimum wage that you are proposing in the Albert bill.

Mr. SMITH of Iowa. I would like to point out that I did not ask that your words be taken down, mentioning the name of the store. I do not know how much all of these chains pay in wages, but we did have plenty of evidence before the committee that they did not all pay more than \$1 or more. I think the average was 78 cents, as I recall it. But, the argument is not whether or not we are stretching the commerce clause; it has been stretched before, further than we ever want to use it in this kind of a bill. The only argument is where is the cutoff? In the committee bill and the Albert bill we cut off at \$1 million volume, and in the Ayres we cut off according to where the store is located.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Ohio.

Mr. HAYS. Did I understand the gentleman to say that there is a chain of stores owned by a member of the other body which is exempt from this bill?

Mr. SMITH of Iowa. I do not know who runs them. I just mentioned that there is a chain of stores in Arizona that does a multimillion dollar business that is exempt.

Mr. HAYS. That is the same store that the gentleman from Ohio mentioned, the Goldwater store, previously?

Mr. SMITH of Iowa. Yes.

Mr. AYRES. Mr. Chairman, if the gentleman will yield, there are other chains, F. W. Woolworth, Sears, Roebuck, and Montgomery, Ward.

Mr. HAYS. I just thought you might want to take my words down. I thought I was an expert in getting around this. Now the name is in the RECORD.

Mr. SMITH of Iowa. Mr. Chairman, I yield back the remainder of my time.

Mr. KEARNS. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan [Mr. HOFFMAN].

(Mr. HOFFMAN of Michigan asked and was given permission to revise and extend his remarks.)

ON THE WIDE AND EASY, BUT DESTRUCTIVE, ROAD TO BUREAUCRATIC DICTATION

Mr. HOFFMAN of Michigan. Mr. Chairman, being a victim myself, permit me to express my deep sympathy for the gentleman from California [Mr. ROOSEVELT]. He has worked long and very closely with some who know about this type of legislation. I have heard him in committee. If anyone in the House ever made a more earnest effort to write a worthwhile bill, it has been my misfortune not to have met him.

We may not have a thought in common. Nevertheless, sincerely I feel sorry for him, because, after all his work, all his effort—and this is not uncommon, either—the party organization throws him overboard. So, here he is robbed of the sponsorship of a bill accepted by the committee, and here we are, and what the vote will be on some are in doubt.

To me, it does not matter, because it is not my intent to vote for any bill of this nature.

The bills to fix the minimum wage, maximum hours, follow the trend of much of the legislation enacted by the Congress in the last few years. Whether characterized as the New Deal, the Fair Deal, or the New Frontier, the professor's dream, the taxpayer's nightmare, whatever may be the purpose, the inevitable result of this type of legislation is to destroy our national independence,¹ our security, our opportunity for collective advancement, the protection of person and property guaranteed by the 5th and 14th amendments as well as the freedom of the individual.

Coming to Congress in January of 1935, one of my convictions was that adherence to the principles of the Declaration of Independence, the Constitution, and the Ten Commandments, together with the newness of our country and its natural resources, had given us the opportunity to establish, and we had established, a government which had not only given to our citizens the best form of government yet devised, but the then greatest opportunity for the exercise of individual freedom, the greatest degree of prosperity, anywhere existing.

Until recent years, throughout the world, our flag, the Stars and Stripes, was ever viewed as a symbol which guaranteed freedom and, by the exercise of

a reasonable degree of individual initiative, financial security. It was ever beckoning to our shores the oppressed of other lands. Here in the melting pot of the world, the product was a free, self-governed people.

Disregarding the admonition of Washington to avoid entanglement in the affairs of other nations, we have, step by step, but ever consistently and continuously, surrendered a part of our national sovereignty, some degree of our freedom of action as a government and as individual citizens, until today we no longer are an independent nation, a free people.

Our voluntary membership in the United Nations, in other international organizations and programs, has so involved us that no longer are we free to act independently as a nation.

Our national sovereignty, our independence, is so circumscribed by agreements with other nations that no longer can we protect our citizens from imprisonment or death in other lands; no longer can we declare or avoid war; no longer are our tax dollars levied or used to protect the future interests of our own people. We pay tribute to, submit to the blackmailing demands of other nations.

To Washington bureaucrats, the thinking of the intellectuals seems to be that, because of the progress we have made in various fields, we must forget the old, adopt the new. Do something—whether the result be good or bad. Scientists must be encouraged, even though we are now told, that if war comes, because of their discoveries and knowledge, civilization—if not all life itself—will be destroyed. A glorious end to scientific progress?

Some advocates of the New Frontier, though they accept the saying, "Dust thou art, to dust returnest, was not spoken of the soul," forget that the desire for freedom and security never dies. That the determination to be free, which carried the children of Israel out of Egypt, across the Dead Sea, and to 40 years in the wilderness, is still with us.

Down through the centuries, in India and in China, overpopulation and unemployment were solved by starvation.

We sometimes solve the problems raised by a growth in population by a war which kills off the most capable and promising.

The Chinese and Indian systems, from a dollar standpoint, are perhaps less costly. Under their practice the less fit die—that is the end—there are no justifiable but burdensome demands of dependents or pensioners for future generations to meet.

One result of surrendering our national sovereignty is that today we are at the threshold of war, no longer privileged to determine whether we go in or stay out. Yesterday the press told us, if quiet diplomacy fails tomorrow's sun may see us, without any action on our part, in another war.

The morning press tells us there is a rumor that our ships and the marines are already on their way to the Far East. This situation where we are unable to shape our own course toward peace or war has arisen because we have already

committed ourselves to the orders of a one-world organization, to an all-out effort to save the world in a manner selected by others.

In days gone by when Britain was the mistress of the seas, it was her proud boast that the sun never ceased to shed its light on the flag of the British Empire.

Today, as one result of our disregard of Washington's warning, it might be said that in every land and sea throughout the world there lies what is left of an American who gave his life in a futile effort to make the whole world free. Regretfully it may be added that our heroic efforts have tended toward curtailing our own freedom.

The foregoing is cited because and only because our foreign policy is similar to, in one respect at least, our domestic policy of which this bill is a part, similar in that the trend is always toward a lessening of our national security, the curtailment of the freedom of the individual, an end to the basic thinking for which some of us assumed our forefathers fought, some died.

With the New Frontier came the acceptance of the political philosophy of the intellectuals, primarily the Harvard and other professors. This old, old thinking that a share-the-wealth program, more money in circulation, all activities controlled by a central government and its bureaucracy, would solve all our ills, has been sold to us by charming personalities who forget or ignore past experience—the lessons of history.

Another disturbing factor is that for some years the Supreme Court has been rewriting our Constitution which some intellectuals loudly insist is outmoded, unfit as a guide for present-day activities.

A few days ago, 250 so-called instructors, professors in higher institutions of learning² seemed to think that it was wrong to interfere with those who would, exercising their right under the first amendment, advocate the overthrow of our Government—even though violence might be necessary—that it was wrong to refuse to give opportunity for free speech to those who wished to support the proposition of the Communists that there is no God, that religion is a fraud, that priests and ministers are hypocrites. Let us give thanks that the House, when the issue came before it the other day, repudiated that thinking, supported the Committee on Un-American Activities, by a vote of 412 to 6.

We recently had a new translation of at least a part of the Bible.

The merit of the Ten Commandments has been called in question. The 10th states in part:

Thou shalt not covet thy neighbor's wife * * * nor anything that is thy neighbor's.

The seventh is:

Thou shalt not commit adultery.

¹ In the city of Paris on Sept. 3, 1783, that David Hartley, for the King of England; Benjamin Franklin, John Adams, and John Jay for the United States, signed their names to a treaty of peace between Great Britain and the United States, making the Thirteen States forever independent. That independence, so dearly won, was surrendered when we joined the United Nations—a group of 99 nations, each with 1 vote, equal to our own—although many number less in population or ability to contribute to the common good than some of our States.

² They sought to lend credit, give some weight, to their conclusions by advertising their connection with colleges or universities, thus giving the false impression they were giving currency to the thinking of the institution itself. Contact with these colleges or universities discloses that few, if any, of the students accept the professors' views.

And while no doubt every member of the Supreme Court adheres to those admonitions, the Court nevertheless has announced, apparently under the 1st and 14th amendments, that through the use of motion pictures it is permissible to portray "acts of sexual immorality * * * as desirable, acceptable, or proper patterns of behavior."³

Though the eighth commandment is clear in its statement, "Thou shalt not steal," the Supreme Court held that inasmuch as it was an established union practice it was lawful to compel one who wished to drive across the State line into New York with a load of merchandise which he intended to sell, to pay tribute to a union for that right, privilege.⁴

Another disturbing thought was the action of a few days ago when the House authorized the Secretary of Agriculture to incur obligations payable in cash up to \$500 million without any action by our Appropriations Committee.

Unauthorized spending has made many fearful. Today's Chicago Tribune carries an objection by our colleague, the gentleman from Michigan [Mr. Ford], of the Appropriations Committee, to the purchase by the Air Force of planes costing \$12 million without having first sought the approval of the Committee on Appropriations, the people's watchdog, charged with guarding their tax dollars.⁵

And so it was that during the past few weeks I have been questioning my early training and my present thinking, ventured back once more into the past, reread some of the books of my childhood days.

³ *Kingsley International Pictures v. The Regents of the University of the State of New York*, 360 U.S. 684.

⁴ Concurring opinion of Mr. Justice Frankfurter (p. 692): "Whatever one's personal preferences may be about such matters, the refusal to license the exhibition of this picture, * * * can only mean that that enactment forbids the public showing of any film that deals with adultery except by way of sermonizing condemnation or depicts any physical manifestation of an illicit amorous relation. Since the denial of a license by the board of regents was confirmed by the highest court of the State, I have no choice but to agree with this Court's judgment in holding that the State exceeded the bounds of free expression protected by the 'liberty' of the 14th amendment."

⁵ It should be added that Justice Roberts and Justice Jackson took no part in that decision, and that Chief Justice Stone, dissenting, wrote: "It is no answer to say that the guilt of a defendant is personal and cannot be made to depend upon the acts and intention of another. Such an answer if valid would render common law robbery an innocent pastime" (315 U.S. 521, 540).

⁶ Chicago Tribune, Mar. 24, 1961: "Members of a House appropriations subcommittee have accused the Air Force of bypassing Congress in awarding a \$12 million contract for jet planes to carry Government officials."

"Representative GERALD R. FORD, JR., Republican, of Michigan, called the purchase of the jets 'a gross example of absolute disregard of committee procedure.' He said the subcommittee looked into some jet procurement problems last year and 'here they go, without any justification, and decide they are going to buy six more.'"

First, "The Story of Liberty," written in 1879 and which carried a chain of events through some 500 years beginning with the signing of the Magna Carta at Runnymede on June 15, 1215, and on down to the settlements at Jamestown on May 13, 1607 and Plymouth on December 21, 1620. It was a tale of determination, of courage, and of a victory finally won, an early victory establishing a few of our fundamental rights.

Again I read as in the days of long ago "The Boys of '76," which gave a little something of the trials, the hardships, the suffering, and the deaths, which apparently were necessary to establish our independence as a nation. Our freedom as individuals, priceless treasures which we have since lightly surrendered not to greater armies or navies or force, but to forked, eloquent tongues of politicians who through words have accomplished what Britain's Navy failed to do in 1812, yielded to the payment of a tribute to which the Barbary pirates could not force us to contribute even one penny.

Picked up "Old Times in the Colonies" which carried an outline of the progress of ideas, gave information as to how and by what means freedom and liberty thrived.

Turned once more to "Building the Nation," written in 1882, which carried a picture of how our young Nation thrived and grew powerful, its people prosperous, because of adherence to principles carried in the Constitution and the matchless courage, endurance, and the thrift practiced by our people.

Worried, thinking of the future of my country, of the welfare of my children, my grandchildren, my great-grandchildren, I reached the conclusion that I just could not go along with measures which, in my judgment, tended to destroy our national sovereignty, the freedom of our people.

In my humble judgment, the pending legislation tends toward that end.

Legislation of the type now pending before us was introduced on May 24, 1937, after President Franklin Delano Roosevelt sent to us a message in which he wrote:

One-third of our population, the overwhelming majority of which is in agriculture or industry, is ill nourished, ill clad, and ill housed.

Hearings were held and one purpose of the legislation, as stated in the bill, was the attempt "in a modest way to raise the wages of the most poorly paid workers and to reduce the hours of those most overworked"; to assist the worker "whose wages will not meet bare living costs and whose health is depleted through long hours of work and undernourishment, causing them to become a liability on their communities."

While supposedly remedial legislation has been on the books since 1938, a period of 22 years—it has contributed not at all toward a solution of the basic problem as is evidenced by the fact that, during the last campaign, we were told by candidate, now President, Kennedy, that 17 million people in the United States went to bed hungry every night.

While all support the purpose, favor the objective, it is obvious that raising wages, limiting hours of work has not, will not enable the American worker to purchase the current standard of living unless we fix the price of commodities and services he must purchase.

None seems willing to accept that proposition. Eventually, unless we are willing to live under a dictator or a bureaucracy, supply and demand—although harsh results may sometimes follow—must control our commerce, and legislation preventing the exploitation of the worker, protecting his health, must be enacted. In my judgment, those are the remedies.

Mr. FRELINGHUYSEN. May I ask the gentleman from Michigan what bill he refers to when he mentions "this bill?" We have before us the committee bill. We have the majority leader saying yesterday he felt the fight today would be between the so-called Albert bill and the Ayres bill. I wonder which bill he thinks we are primarily concerned with, and which is he directing his remarks to?

Mr. HOFFMAN of Michigan. In fairness and justice I think—it is only an opinion, although many of us appear to state facts when all we have is just an opinion—I assume that inasmuch as the gentleman from California now on the floor, who has spent so much time, so much earnest, patriotic effort in drafting a bill, I would think we should consider the Roosevelt bill, H.R. 3935, the bill reported by the committee, and, if the gentlemen want to offer a substitute, all well and good.

The gentleman being here when I spoke previously, permit me to again express the utmost sympathy for him, commend him because he so gracefully and uncomplainingly accepted this leadership—to me, unfair discrimination—I will not say lack of courtesy, but accepting the course which they thought necessary in order to get a bill.

I would like to know what is in the latest revised offering if I am going to vote for it, and I am not—what is in the yet unoffered bill, in the Ayres bill, the Kitchen bill, and the Albert bill, and any still to come. But just as a matter of passing interest, I would like to know what is in the next bill we may have before us.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. ROOSEVELT. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. JOELSON].

(Mr. JOELSON asked and was given permission to revise and extend his remarks.)

Mr. JOELSON. Mr. Chairman, I rise in support of H.R. 3935. We have had a Fair Labor Standards Act now for 23 years. When that law was enacted, the conditions of the American worker in this country were miserable conditions, and he despaired and he was dispirited. I heard my predecessor at this microphone ask what this type of legislation could do for this country. Now I respect the Member who just spoke before me. He is many years my senior. He is a man

of deeply held convictions. But, if I have read my history of the thirties correctly, it seems to me these great social programs of the 1930's put the American people back on their feet again and stopped them from listening to the siren songs that come from Moscow. It is the type of program that has made America great. But this is an old program. It does not face up to the need of our times any more. It needs to be extended and it needs to be improved and it needs to be revised. We must cover additional people. I do not think there is anyone who in good conscience can say to himself that a wage of \$1-an-hour is inflationary. I think that when we say that in America we cannot afford to pay a man \$1 or \$1.25 an hour, we are betraying what we have come to know as the American dream. These are falsely technical arguments of people who are opposed to the basic concept of the Fair Labor Standards Act itself. They are afraid to go backwards because they know it is politically ruinous, but they refuse to go forward. I say we have a good bill before us. We have an effective bill. I know my colleague from New Jersey is going to ask me what bill I am talking about so I yield to him to ask me.

Mr. FRELINGHUYSEN. I would like to ask the gentleman from New Jersey, and I am reluctant to interrupt his very fine presentation, how he feels about the various labor bills before us. Can he enlighten us or can anyone on his side enlighten us about the specific provisions in that bill which has been called the Democratic leadership bill? The majority leader, as I am sure the gentleman knows, said that he undoubtedly expected the fight to be between the Albert bill and the Ayres bill, which would by implication repudiate the Roosevelt bill. I just wonder whether he knows what is in the Albert bill? Can he give us some idea of what it contains and his ideas about it?

Mr. JOELSON. I am speaking in favor of the Roosevelt bill, which I think is a fine bill. If I feel that it cannot pass I will take the next best bill I can get. I think you are, perhaps, concerned that we are going to get any bill at all.

Mr. FRELINGHUYSEN. I would like to see some bill passed, but I am beginning to have doubts in view of the fact that we do not even seem to know what is in the so-called majority bill. There has not been any discussion of its provisions in this body.

Mr. JOELSON. I am talking about the Roosevelt bill.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. JOELSON. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Mr. Chairman, I just want to call to the attention of the gentleman from New Jersey the fact that there is a summary of the bill, as introduced by the majority whip, at page 4405 of yesterday's CONGRESSIONAL RECORD along with the full text of the bill. I think it is inaccurate to say that there has been no discussion on this floor of what has been in the Albert proposal.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman from New Jersey yield for a question?

Mr. JOELSON. I think I have yielded quite a bit of my slightly allotted time, and this being my maiden speech, I would like to finish it on my own terms.

I merely want to conclude by saying that the arguments that have been raised against the bill are false and technical. We cannot regard \$50 a week take-home pay for the average head of an American family as inflationary in America. We cannot say that putting purchasing power into the hands of the American people will cause unemployment. This is a good and effective bill.

Mr. Chairman, I yield back the balance of my time.

Mr. KEARNS. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. ASHBROOK].

Mr. ALGER. - Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield.

Mr. ALGER. Mr. Chairman, I appreciate the gentleman's yielding. I simply want to join with my colleague the gentleman from Michigan [Mr. HOFFMAN] in his earlier statement and say that in my opinion the whole bill is unconstitutional. The imposition of Federal minimum wage is unconstitutional. I, too, have listened to the debate so far and intend to listen to the remainder of it. I also intend to try to make the bill as good as possible with regard to preserving the rights of our individual citizens, and then finally to vote against this proposal because in my opinion it is not constitutional.

I thank the gentleman for yielding.

Mr. ASHBROOK. I would say to the gentleman from Texas that I, too, have listened to every bit of the debate. I would say, Mr. Chairman, that listening to all of it and all the different points of view I certainly would not find myself able to say that anyone has misstated an opinion. I believe, however, it is my duty to point out that there is a great difference between opinions and misstated facts. I found it very difficult during the campaign to believe that Candidate Kennedy, now President Kennedy, who had as a Member of Congress served on the Committee on Education and Labor, and later as a Member of the Senate-sponsored minimum wage legislation, would not make what I consider to be a misstatement of opinion, but rather a misstatement of fact; in fact, I, being in the newspaper business, realize that sometimes we do not always properly report a man and I was inclined during the campaign to give him the benefit of the doubt.

Last night, however, Mr. Chairman, with my own eyes I witnessed the television playback of the press conference, and with my own ears I heard the very words which I would like at this point to read into the RECORD. I think it is significant because our President, having a forum, as he has, to project his views to all the people, should while having the greatest latitude for opinion, at the same time be very careful in making factual misstatements, which I believe

were made last night; and I refer particularly to this statement:

I find it difficult to know why anyone would oppose seeing somebody by 1963 paid \$1.25 in interstate commerce and in the new coverage we're talking about businesses which make over \$1 million a year and I find it difficult to understand how anybody could object to paying somebody who works in a business which makes over \$1 million a year by 1963 \$50 a week.

Mr. Chairman, I would point out the fact that in two instances our President used the phrase "makes \$1 million" and has made what I think all of us would agree to be a misstatement of facts, a misstatement of facts which would lead many people to ask: "What is wrong with taking \$1.25 an hour from these millionaires?"

Quite the opposite from what is stated, this bill does not talk about \$1 million in the sense of profit, but rather in the sense of gross sales. I am a small businessman. I am talking about businesses that do anywhere from \$50,000 to \$100,000 gross a year. The bill in its reference to dollar volume refers to a \$1 million gross and not that the firm earns or makes \$1 million. I therefore, would like to see this point corrected, because I think it is wrong to leave with the American people the impression that it is being taken from people who are making \$1 million net a year.

Mr. MEADER. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Michigan.

Mr. MEADER. Does the gentleman know whether or not the average retail sales organization makes about 1 percent on its gross sales?

Mr. ASHBROOK. I would think it would be a little bit higher than that, but I know it is a low percentage.

Mr. MEADER. If the percentage is 1 or 2 percent, then on a business which grosses a million dollars a year there would be a profit of \$10,000 a year?

Mr. ASHBROOK. Yes.

Mr. MEADER. In the sense of making a profit, is that correct?

Mr. ASHBROOK. I would think you would have to sell well over a hundred million dollars of goods a year to make \$1 million.

Mr. HIESTAND. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. HIESTAND. For the record, and I am sure the Members will appreciate this, it is a well established fact by experience and statistics that large chains and large stores not only make more dollars than small stores, but they actually earn a greater percentage of sales than smaller stores. I have a couple of figures here. I shall not ask to have them all put in. For R. H. Macy & Co. their net earnings are 1.4 on sales. That is to say if R. H. Macy & Co. had gross sales of \$1 million it would be earning 1.4 percent, \$14,000. The average of 24 big companies, 2.7, the average of 35 chainstores, food, 1.3. I could name a lot of individuals or wholesalers and jobbers, 1.7. For chains other than food, 2.9. These are averages.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. KEARNS. Mr. Chairman, I yield the gentleman an additional 2 minutes.

Mr. ASHBROOK. Mr. Chairman, I thank the gentleman.

I would like to add one last point. As I have listened to all of this debate it has been interesting to find out those who consider themselves to be friends of the small businessman. I would only leave the question in each of your minds as to the comparison between the bills. If you were a planner or person seeking to usurp local and intrastate commerce and the right of State legislatures, which way are you going to get to the small businessman, the man who grosses \$50,000 or \$100,000, a purely local business? Is it going to be through the dollar volume test, or is it going to be through the test of five or more stores in two or more States? I suggest we all can answer that question very simply, Mr. Chairman.

I would say, as a member for two terms of the Ohio Legislature, and serving on the Labor Committee, I found that our legislators are competent to act in this field; I find that they will, if the need is brought before them, and if the facts are shown to merit it, vote for minimum wage legislation. I oppose the effort to extend minimum wage coverage into purely local business. To me that is one more step toward economic and political dictation of our lives.

Mr. ROOSEVELT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I am about to yield to the gentleman from North Carolina [Mr. KITCHIN] for the purpose of discussing the Kitchin-Ayres bill. I would like to point out to my friends on the other side, of course, this is coming out of the time of the proponents, and if he should need more time I hope the gentlemen on the other side will take care of it.

Mr. AYRES. I think we can cooperate. Will the gentleman from California have any objection if we put a speaker on before Mr. KITCHIN?

Mr. ROOSEVELT. No. I have no objection.

Mr. KEARNS. Mr. Chairman, I yield 10 minutes to the gentleman from Missouri [Mr. CURTIS].

Mr. CURTIS of Missouri. Mr. Chairman, I think this is the time to try to develop some of the basic and economic philosophies behind the minimum wage bill. First, I may say I personally believe that the minimum wage law has proven to be a very valuable economic tool. I am very fearful if we change the basic theory behind it we might damage something that has proven to be quite valuable.

Second, I think the amount of the minimum wage is something that we should constantly adjust as our economy moves forward in increased productivity. The last time I was in somewhat of disagreement with my own administration on the amount. It is always a question of difficult evaluation. I felt \$1 was justified and the administration thought 90 cents was a more realistic figure, I am

not at all sure but what they might yet have been right. But, there is an area for honest disagreement.

The point I am getting to is the basic philosophy itself, and the gentleman from Michigan [Mr. GRIFFIN], developed that to some degree in referring to the statement of Secretary of Commerce Hodges.

Yesterday I referred to the statement of Secretary Goldberg on page 25 of the hearings, to which I will call attention again, and I am going to direct a question to the chairman of the subcommittee, the gentleman from California [Mr. ROOSEVELT], to find out his interpretation of this philosophy, because I think it is very basic. Mr. Goldberg stated:

In fact, protection under the present law is denied to some 20 million men and women in private industry, but I also realize that we have to progress step by step, somewhat haltingly, to achieve the act's original purpose.

Now, that implies—and I suggest it probably is the philosophy of Secretary Goldberg and possibly of the gentleman from California [Mr. ROOSEVELT], that this should be a complete coverage, and the only reason we are not there now is because you cannot take it all at one bite, the people will not stand for it, or because we have to move slowly. But, there is quite a bit of difference in basic philosophy from complete coverage and the philosophy that I suggest lays behind the basic law.

Is it the philosophy of this administration, as the gentleman understands it, from the testimony of the Secretaries of Commerce and Labor, to move eventually to complete coverage at the Federal level?

Mr. ROOSEVELT. I would have to say to my good friend that I do not believe that is either the philosophy of the present administration or the philosophy of the gentleman from California. I think the philosophy that the Secretary of Labor was referring to was the necessity of moving forward as circumstances obviously make it necessary, as we have seen from the time we started with a minimum wage of 15 cents and then up.

Mr. CURTIS of Missouri. Not the amount, because I agree. I am talking about coverage; whether it is to cover everyone.

Mr. ROOSEVELT. And also that it obviously is quite right and proper, as I think I expressed yesterday, that when you have a change in the economic conditions, which means the largest number of workers who used to be engaged in industry or commerce, now are in white collar or blue collar work, particularly in the retail services; that if these people have been creating an economic pocket where they are suffering from getting wages below a decent minimum wage, that it is proper and within the authority of the Congress under the basic act of 1938 to reach into that field. However, that would not imply that either Congress or any individual felt that that included everybody but only those who specifically obviously needed the protection of the act.

Mr. CURTIS of Missouri. Then, I suspect my observation is correct, because I think everyone in the lowest brackets would need it. So, there is no limit.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield for one further observation?

Mr. CURTIS of Missouri. Certainly.

Mr. ROOSEVELT. I am sure the gentleman is supporting the Kitchin-Ayres amendment. Now, the Kitchin-Ayres amendment would also extend coverage into this field, and if the gentleman's remarks are accurate, then they would imply the same thing, because some future Congress can do that, also.

Mr. CURTIS of Missouri. The only reason I can support the Kitchin-Ayres bill above the Roosevelt bill is at least it uses the same recognized standards of measuring interstate commerce, but in directing my attention to the economic features I must confess that I have not heard evidence here or in the hearings before the Joint Economic Committee that would lead me to believe that this additional coverage is necessary to accomplish the purpose of raising all wages in our labor market whether covered by the minimum wage law or not.

Now if I may direct myself to what I believe is the original theory behind the minimum wage coverage, and what I think is a good theory still, it is that we cover a substantial portion of the labor market. What is substantial is always subject to review and discussion, but a substantial portion, on the theory that if we cover a portion of the labor market, the rest of the labor market is thereby uplifted and affected through what has been referred to as the rippling effect.

The rippling effect has its impact in two ways; one, within the industry itself by continuing the wage differentials, so that we go up above the floor to much higher wage scales, up into \$3 and \$4. And the second is in the area of noncovered employment.

It is pointed out on page 180 and 181 of the hearings where there is a discussion and a quotation from the Labor Department on the rippling effect. Let me read from page 181.

The Labor Department further pointed out that the \$1 minimum had a wage-boosting effect even in industries not covered under the law: "Some of the workers to whom the act does not apply obtain rates of \$1 or more as a result of the Federal minimum rate's effect in labor markets."

Then it goes on to point out that Gov. Averell Harriman of New York said this to the legislature—and this is quite important:

Within the past year, legal minimum wages have been increased in 6 of the 10 industries covered by minimum wage orders. We estimate that some 150,000 employees had their wages increased as a direct result of these orders, and that an additional 450,000 received increases as an indirect consequence of the order.

That is 3 times the number. All economic studies that I have seen in this area indicate that this rippling effect is

an accurate thing. It does work and it has the basic advantage of preserving flexibility in this system. If you go, as I see it, into this complete coverage concept you are going to build into this system a rigidity that will badly damage it and prevent it from having this very desirable effect.

The second basic philosophic concept I want to call attention to—and this gets down into semantics, to a large degree—is this. This is a minimum wage. The concept was minimum, not average. It was not a concept of what a man and wife and children need to support themselves. And I must disagree with my friend from Arizona [Mr. RHODES], in presenting that point of view. I have heard that philosophy. But I think anyone reading the history or examining the economic theory behind it realizes that what we are talking about, of course, is a floor. And the floor, of course, applies to that which is the minimum; the person who is the new entrant, if you please, although we have created some flexibility which I think is desirable, for apprenticeships. But essentially it is the first entrant into the labor force or the person who is working, let us say, to supplement the income of the rest of the family, the 18-year-old. It is a minimum. And I think it is wrong when people refer to the dollar or the 90 cents or when it was 40 cents, by asking what are really ridiculous questions—who can live with a family on this amount of money? Because the answer, of course, is that no one can. It was never intended to be that. But by putting in a floor we did create a device, an economic tool which raised the living standards of people above the minimum, above the floor so they would have enough wages to support a family.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. CURTIS] has expired.

(Mr. CURTIS of Missouri asked and was given permission to revise and extend his remarks.)

Mr. ROOSEVELT. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. CURTIS of Missouri. I thank the gentleman.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield to me?

Mr. CURTIS of Missouri. I yield.

Mr. ROOSEVELT. May I simply point out to the gentleman that with much of the last part of his remarks I agree. I think he will also agree that no one wants to keep any part of our economy living in the cellar. They ought to come up to that floor.

Mr. CURTIS of Missouri. That is correct; but it is the rippling effect, I might say to the gentleman, that does exactly that.

Mr. ROOSEVELT. May I call the gentleman's attention to the January 1961 report of the Secretary of Labor, which, incidentally, was not the report of the present administration but of the previous administration. On page 18, in paragraph 4, the next to last sentence in the first paragraph reads:

More frequently, the higher paid workers received no increases on the effective date of

the new minimum, or received increases of less than 25 cents, resulting in a narrowing of occupational differentials. In subsequent years, occupational differentials tended to be partially restored.

Mr. CURTIS of Missouri. That is correct, but the gentleman will notice the key words "on the effective date." It really takes a year or so for this wage differential actually to expand again. But it certainly and inevitably has that result. I wanted to point out this, too, if I may. The area where we have unemployment the greatest, where the average is 17, 18, and 20 percent, is in the unskilled, semiskilled, new, and untrained labor force group. That is exactly the area that would be most damaged, because we do have an unemployment effect whenever we raise the minimum wage; and I am in favor of the \$1.15, I might say.

Mr. ROOSEVELT. The narrowing of the gap was also tremendously affected by the productivity which the people who got that minimum wage as well as other segments of society were able to bring about. Therefore, the actual minimum wage increase was not responsible for that.

Mr. CURTIS of Missouri. It is the productivity increase that has achieved this. It is productivity increases in our economy alone that permits us to raise the minimum wage rate from time to time. For that very reason the escalator clause in the Roosevelt bill or any escalator clause in any minimum wage law violates the basic economic concept contained in the law. We can only raise the minimum rate after we have achieved economic success, not before. Raising the rate before we have had productivity advance to justify it will damage our economy through inflation and unnecessary unemployment.

I hope 28 months from now our economy will have advanced to the point where we can raise the rate to \$1.25 an hour, but it is a cruel and dangerous thing to fool our people into thinking that we can do it now through blind appeal to the humanless that we all possess.

Mr. HIESTAND. Mr. Chairman, I make the point of order that a quorum is not present.

Mr. ROOSEVELT. Will not the gentleman withdraw that? We are trying to get through, and that only delays the whole House.

Mr. HIESTAND. I do not think a quorum is present.

The CHAIRMAN. The Chair will count.

One hundred and eleven Members are present, a quorum.

Mr. ROOSEVELT. Mr. Chairman, I yield 15 minutes to the gentleman from North Carolina [Mr. KITCHIN].

Mr. KITCHIN. Mr. Chairman, at the outset let me thank my good friend from California for affording me this opportunity to at least further confuse the issue if it is not already totally confused.

Mr. Chairman, I have joined with my colleague on my left, my good friend, Mr. AYRES, in sponsoring a bill that we feel is a moderate approach to what is

apparently required at this stage of the game as a minimum wage amendment. I would like to say at the outset, too, that in joining a so-called coalition with the gentleman on the left, there have been certain disparaging remarks made about the gentleman from North Carolina, which I am thickskinned enough to understand why they are made and thickskinned enough to at least accept them at face value. But, I want to straighten the record at this particular point.

Last year when this particular subject was up for debate, the gentleman from North Carolina and the gentleman from Ohio offered practically the same bill, but I was not at that particular moment, as I am at this particular moment, put in the position of opposing the leadership on my side of the aisle. This is, indeed, an embarrassing situation, but it does not in any sense of the word or by any stretch of the imagination change my basic philosophy when it comes to protecting the integrity of constitutional government in the United States. I am going to pursue the course I pursued last year and try to at least present the facts, as I see them—or maybe I should qualify that and say—I will try to express an opinion, rather than to labor upon the subject of facts, because I am not an expert in the labor law; I am not an expert economist; I am not a member of the committee; I am not assuming a position of any authority when it comes to either constitutional law, the technical provisions of the Fair Labor Standards Act or the technical provisions of what is now called our modern-day economics.

I would like to say at the outset, however, that in this particular subject I am not ignorant from the standpoint of ordinary commonsense and what I feel is the best for my country. There is going to be offered by my colleague, the gentleman from Ohio [Mr. AYRES] from the minority side, what is commonly called the Kitchin-Ayres bill or the Ayres-Kitchin bill or whatever you want to call it—when we get under the 5-minute rule and when we get to that particular point. But, so many statements have been made with reference to jurisdictional questions, I would like at least in my humble way to express an opinion as regards jurisdiction and the constitutional question. In debate on the concept offered by the committee last year and again this year and the Roosevelt bill, which is the committee bill, and in the concept that is offered in the substitute bill that will be offered by the gentleman from Oklahoma [Mr. ALBERT] which he filed on yesterday, there have been criticisms saying that the Kitchin-Ayres concept in including these chain operations operating in interstate commerce is not a particular factor because they are not an interstate commerce enterprise proposition, retail establishment or whatever you want to call it—I say it is an interstate business.

I would like to say at this particular point that under both the concept of the Roosevelt bill and the concept of the Albert bill, and I hope to ask some ques-

tions about that in a little while, the jurisdiction of the Federal Government is assumed by certain prerogatives established within the statute itself, if these bills are passed, which is all-embracing. It throws a complete tent over our total economy and then exempts under a jurisdictional section those that do not come up to a certain dollar volume test. They say just because a chain operation operates in two or more States that that does not constitute interstate commerce. Let me say this, not being an expert on constitutional law, that probably the Kitchin-Ayres concept is skating on thin ice when we bring in this particular concept, but, if we are skating on thin ice by this particular interpretation, I am frankly and honestly of the opinion that we have not as yet fallen through into the cold waters of total Federal economic control as we would be under any other concept heretofore offered.

We are at least carrying our particular interpretation of the interstate clause down to an operation which involves operation in two or more States. You may say that we are arbitrary. Perhaps we are. You might ask: Why not one or more stores operated in two or more States? Why not two or three? The answer is we had to get a cutoff somewhere and want to make it reasonable in its relationship to retain merchandising.

That, of course, is arbitrary. But let me say to you, Mr. Chairman, that as far as the interstate operation under the original act is concerned, the concept of the Kitchin-Ayres bill is, we think, on safe ground. Why?

The gentleman who preceded me, I believe, made a comment with reference to the flow of goods in interstate commerce or the operation of employees in handling goods. That was the prime criterion and the basis upon which the original act was brought to the floor in 1938.

But here we have an operation in two or more States, most of the operations having a central buying service, most of whom have central warehouses out of which they take this merchandise, carry it across State lines, put it into inventories in stores in other States. Here we have an operation that not only is operating under the laws of State A but is also operating under the laws of State B, and possibly State C; that are going out of the State in which they originated, to take advantage of tax cutbacks, tax writeoffs, and other advantages of the laws of another State that enter into a chain operation. These are taken advantage of generally by a chain operation, and there are many other economic facets. When these companies move inventories across State lines they cease to become, in my opinion, someone who is in the operation of a simple ordinary retail establishment whose goods flow into his establishment, then into the community by sale to the consumers; on the contrary we have a chain operation under our bill operating to a great degree moving their goods in interstate commerce. Not only their goods, but also they move their auditors in interstate commerce. They control the employ-

ment of employees in all their units for a central control. In this respect may I say, Mr. Chairman, that I think we are approaching more nearly the real concept upon which the Fair Labor Standards Act of 1938 than the concept that would allow the Federal Government to assume jurisdiction over our total economy just because somebody happens to be fortunate enough, or unfortunate enough, to make a dollar volume of "blank" dollars. Today they are assuming a dollar volume of \$1 million. Next year may be less.

But let us look at it from another viewpoint. Consider an owner, a proprietor, or an employer, operates with an efficiency greater than that of a competitor. Let us look at it from the viewpoint of the employees who are employed within the confines of these establishments: Here are employees employed in store A whose proprietor or owner has been a progressive man who advertises, who has remodeled his store front, who has up-to-date, modern merchandising services, and has largely by these particular means done a million-dollar or more business in gross volume. His employees come under the act in the concept of the Roosevelt bill.

Store B across the street is not progressive. The proprietor has not put on a new store front, has not adopted modern merchandising methods, does not advertise. He grosses less than \$1 million. His employees would be penalized under the committee bill.

So we must also consider the rights of the employees at the same time we are talking about the rights of the proprietors.

The chainstore owner, the chain operator, the big operator, can protect himself, he can narrow his employment down, he can put in a cashier up front and discharge other employees, he can put a larger price on his merchandise and let the consumer take the shock of his burden. But what about the employee who is going to be transferred out of a job because of this unreasonable proposition?

Mr. Chairman, something has been said with reference to the amendment by the Albert bill, that there will be a cutoff or an exemption for retail establishments that do not gross over \$250,000. I will ask about it in a minute.

I want to announce now that in the Kitchin-Ayres bill, when it is offered on the floor when we get under the 5-minute rule, there will be contained an exemption, where each of the establishments in an enterprise meeting this five-store, two-State test, that do not gross in excess of \$250,000 per establishment will be exempt. We will talk about that when we get to consider the bill under the 5-minute rule.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. KITCHIN. I yield to the gentleman from California.

Mr. ROOSEVELT. Is there a copy available of this newest change in the Kitchin-Ayres bill?

Mr. KITCHIN. It has just become available; yes.

Mr. ROOSEVELT. I would appreciate it if the gentleman will give me a copy.

Mr. KITCHIN. I will.

Mr. Chairman, I would like to talk for a moment if I have time left, on the Albert bill. I would like to speak a moment about the accelerated wage rates in the Albert concept, and in the committee concept. I cannot stress this too strongly, Mr. Chairman, that we are now dealing in an accelerated future rate and its future impact on the economy about which we know very little. As a matter of fact, we not only cannot anticipate what our economy is going to be 2½ years hence when this \$1.25 will go into effect, we cannot even understand the impact upon our economy at the present time.

We have at the present time more unemployment, according to the labor statistics, than we have had in the past 20 years. It is paradoxical to me how we can raise the minimum wage and still create more jobs. I can say definitely it will not do that in my section of the country. It will cause more unemployment.

With reference to how it is going to affect the economy at the present time I tell you there was this week a meeting by those Members of the Congress who are interested in the textile industry of our country. They are determined to try to get the President of the United States to do something about setting quotas by country and by category. It is again paradoxical to me that we say in one breath the wage differential on foreign imports is killing our local industries by creating a wage and price differential we cannot compete with, and in another breath say that we ought to raise the minimum wage to \$1.15 and in 2½ years to \$1.25.

The CHAIRMAN. The time of the gentleman has expired.

Mr. AYRES. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. KITCHIN. I thank the gentleman.

I would like to ask the gentleman from Oklahoma if he will answer a question or two.

Mr. ALBERT. Mr. Chairman, will the gentleman yield?

Mr. KITCHIN. I yield to the gentleman from Oklahoma.

Mr. ALBERT. By way of a preliminary statement may I ask that the gentleman from California yield the gentleman such time as I may use. I want to state that there is no personal feeling involved in this matter so far as the leadership is concerned with reference to my friend, who knows the esteem in which I hold him personally, a man I know to be a man of integrity and one of the finest and most distinguished Members of the House.

I realize my own lack of qualification in this matter. I am not a member of the committee. I am not a great constitutional lawyer, and there is a lot I do not know about labor legislation. But I do want to assure my friend that his attitude on this measure does not change the attitude of myself, and I think I speak for everyone that I know

of with respect to our personal regards for him.

Mr. KITCHIN. I thank the gentleman very sincerely. Now, I assume from that that I should ask these questions of the chairman of the subcommittee. Would you rather the questions be directed to the gentleman from California or some member of the committee?

Mr. ALBERT. It will be satisfactory with me for you to interrogate the gentleman from California, since the basic principles of my bill, with substantial exceptions, are in his bill.

Mr. KITCHIN. I thank the gentleman. First, I should like to make a statement and have the gentleman from California follow me on this, and if the statement is incorrect, will the gentleman interrupt and clarify the situation?

In the Albert bill, I call attention to the gentleman from California, on page 4 something new has been added; something new that I simply do not understand, and I do not believe a large portion of the membership of this body understands, and I am bringing it up at this particular time because I think when we get under the 5-minute rule we will have so little time to try to understand the new provisions of this particular concept. On page 4, in the paragraph under the definition of "Enterprise engaged in commerce" and then going to line 5, here is the qualification I would like to inquire about:

If not less than 25 per centum of the annual gross dollar volume of business (exclusive of excise taxes at the retail level which are separately stated) of such enterprise is made from sales or services which require, or depend on, shipments of goods in commerce or engagement by employees in commerce or in the production of goods for commerce.

Now, may I ask this question? I am assuming that this would embrace a retail establishment if it meets the dollar volume test and does not come under the \$250,000 exemption. If it is a mercantile establishment making in excess of \$1 million gross, that the interstate commerce definition here, where it says "depend on" would include this example:

A mercantile establishment in Nashville, Tenn., which meets the other test, orders goods that are manufactured in the State of Tennessee; he orders these goods from Memphis, from Knoxville, from Chattanooga, but those goods are put on the L. & N. Railroad, or whatever common carrier it takes to ship those goods from those points of origin to destination, and it is under a waybill, and that particular railroad, as you know, is controlled and it is in interstate commerce, I would ask the gentleman if less than 25 percent of that stock of goods came from within the State of Tennessee by means of an interstate commerce carrier, that this would not bring him within the definition "depend on" interstate commerce?

Mr. ROOSEVELT. I would say to the gentleman that after consulting—because I knew that this question would be raised—with the distinguished attorneys who had a hand in drawing this

from the Department as well as from the staff of the committee that such an interpretation would be wrong, and I think it is important that we now clarify it for the legislative record.

Mr. KITCHIN. May I ask the gentleman from California, in clarifying this, if he would give us his opinion as to what "depend on" means in this particular section.

Mr. ROOSEVELT. I not only will tell the gentleman what is my opinion but the opinion of those who drew it. It is the intent of those who drew it, and we want it clearly understood, that that shall be interpreted as meaning that actually goods must be ordered from out of State, must cross State lines and then be resold and become a part of the volume of business of the concern. Is that clear, sir?

Mr. KITCHIN. Yes. But here I put the words "depend on" in. Is not that covered in the language "of such enterprise is made from sales or services which require, or depend upon, shipments of goods in commerce —"

Now, eliminating the words "depend upon," the gentleman's illustration is covered in those two phrases, is that correct?

Mr. ROOSEVELT. In our opinion they are not. I am not a lawyer, but I think we can make it completely legislatively clear that that is not the intent. The intent is solely that it shall mean that it depends upon goods which have actually crossed State lines in getting into the establishment from which they are sold.

Mr. HIESTAND. Mr. Chairman, will the gentleman yield?

Mr. KITCHIN. I yield to the gentleman.

Mr. HIESTAND. May we then say that this clause exempts no other establishment?

Mr. KITCHIN. I assume that question is directed to the gentleman from California [Mr. ROOSEVELT].

Mr. HIESTAND. That is correct.

Mr. ROOSEVELT. I do not quite understand the gentleman's question.

Mr. HIESTAND. Can we not say that it exempts no other institution doing, say, \$1 million gross volume?

Mr. ALBERT. Mr. Chairman, will the gentleman yield to me?

Mr. KITCHIN. I yield to the gentleman.

Mr. ALBERT. I think it should be crystal clear that this is an exemption over and above the \$250,000 per establishment, over and above the \$1 million gross enterprise exemption.

Mr. ROOSEVELT. That is correct.

Mr. KITCHIN. I understand that clearly and if I could speak for the rest, I assume the rest do. Can the gentleman from California give me out of his great experience an illustration of any mercantile establishment which would not meet the interstate commerce test under this particular 25-percent depend-upon clause? Can the gentleman name an establishment, a retail store, that would not come under the provisions of this act?

Mr. ROOSEVELT. Yes, sir; I believe I can. There are certain stores in the

city of Los Angeles which primarily, wholly sell summer goods, garments which are made in the garment trade, the garment industry of the city of Los Angeles. Their volume is well over \$1 million. However, in this instance they would not be covered because they do not get 25 percent of their goods for sale across State lines. What they sell is made within the State of California, practically all of it.

Mr. KITCHIN. Under that particular illustration that the gentleman has drawn, I will ask him if he is still of the opinion, and his counsel with whom he has discussed this, that this particular store operating in Los Angeles, if the goods they order from within the State of California are carried into Los Angeles by a common carrier, they would not meet this 25-percent depend-upon clause test?

Mr. ROOSEVELT. If they stayed wholly within the State of California, as long as they did not cross State lines, it could not be counted in the volume that had been made as at least a part of that 25 percent.

Mr. KITCHIN. When the time is right, will the gentleman consent to the deletion of the words "depend upon" from this particular act?

Mr. ROOSEVELT. No, sir; I do not think I could, because our attorneys tell us that this is the proper way to get at the goods crossing State lines. If you took that out, you would be eliminating the requirement that they must cross State lines. And I could not agree to that.

Mr. KITCHIN. I might say that I am not a technician, but speaking only as a country lawyer and interpreting statutes, I would say that the words "depend upon" go much further than counsel with whom the gentleman has consulted apparently think. And until counsel would be willing further to explain this—and I hope it will be further explained when we continue the debate under the 5-minute rule—I trust he will be willing to substitute other words so as to get these words "depend upon" out of this particular bill.

Mr. ROOSEVELT. May I just make the point that I think it is clear from the colloquy that we have had between ourselves, but if the gentleman can bring to us before we consider the bill under the 5-minute rule additional words to make it clear, I am sure we would be happy to consider it, because that is our intention.

Mr. KITCHIN. We will dismiss that for the time being.

I should like to ask one more question with reference to the Albert bill. I am referring especially to section 17 of the act itself. As I recall, this was also in the bill the gentleman from California sponsored, in the bill that is now before the House. In section 17 there was the proviso under the original law involving injunctions that was injected into the act in 1949, as I recall, that read as follows:

Provided, That no court shall have jurisdiction, in any action brought by the Secretary of Labor to restrain such violations, to order the payment to employees of unpaid minimum wages or unpaid overtime

compensation or for an additional equal amount as liquidated damages in such action.

The Albert bill and the Roosevelt bill delete that proviso and give the Secretary of Labor the authority to go in and in injunction proceedings take the action away from the original litigant—the employee in these circumstances—and prosecute the act for the employee. Do I understand it is in the new bill, too?

Mr. ROOSEVELT. It is in the new bill, but for this reason, that the Secretary's testimony, if the gentleman will read it, pointed out that in many, many instances where there was an unwillingness to pay the wages found to be due, where because of various situations the employer could bring pressure upon the employee so that there was no way to get it to the employee, the Secretary felt that in fairness to that employee where this had been already adjudicated as being necessary, he should go in and establish a way of getting the money back to the employee to whom it was due.

Mr. KITCHIN. So the same provision is in the Albert bill that was in the Roosevelt bill in connection with the injunction provision?

Mr. ROOSEVELT. That is right.

Mr. KITCHIN. I thank the gentleman.

Mr. KEARNS. Mr. Chairman, I yield 14 minutes to the gentleman from New York [Mr. GOODELL].

Mr. ROBISON. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from New York.

Mr. ROBISON. May I say to my colleague from New York that I have been following the remarks of the gentleman from North Carolina with considerable interest because as this debate has progressed it seems to me the only formula on which a majority of us might be able to agree would be in some combination of the five and two, or the interstate commerce test, with the unlimited \$250,000 cutoff feature. I introduced such a bill yesterday. It is H.R. 5888.

Mr. GOODELL. May I say the gentleman from New York has made a very great contribution to the solution of this problem.

Mr. BECKER. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from New York.

Mr. BECKER. I wonder if the gentleman would tell me what bill they are discussing before the House, whether it is H.R. 3935 or the various bills introduced by the gentleman from California [Mr. ROOSEVELT] since H.R. 3935, or whether we have been discussing the Albert bill here in the last 15 or 20 minutes. Just what bill are we discussing now? There are many deviations in this bill and I have not the faintest idea which bill we are discussing, before we get to reading the bill under the 5-minute rule. Will the gentleman tell me?

Mr. GOODELL. It appears we are discussing them all. I am going to try to clarify that point.

Mr. BECKER. I wish the gentleman would. I do not know which bill we are working on.

Mr. GOODELL. Mr. Chairman, in checking the committee bill, the Roosevelt bill, against the Albert bill, when we got a copy of it, there appear to be 17 changes made in these bills. I think it is very important that we understand just exactly what these changes involve.

May I ask the chairman of the subcommittee, Mr. ROOSEVELT, some questions about this Albert bill. I assume the gentleman is the correct person to whom to address these questions.

Leaving aside the dollar-volume figure, can the gentleman conceive of any store which would not be covered by this language on page 4 of the Albert bill which, among other things, the gentleman from North Carolina [Mr. KITCHIN] quoted including the words "sales or services which require or depend on shipments of goods in commerce."

Mr. ROOSEVELT. I would say to the gentleman, I already answered that question and given a specific example.

Mr. GOODELL. I have consulted with some of the attorneys who have worked a long time on this labor act. They tell me they feel the language, which you have now included on page 4 is actually more expansive than the language you had before because these words "which require or depend on shipments of goods in commerce" are just about as broad as you can get them. It includes virtually everything. Frankly, I think you could include my own residence, my home, because I think most of the goods in my home probably came through commerce and depend on it by this language. I well recognize that you have other exemptions stuck in here on a dollar volume basis, but I am talking about this key question which we have been discussing here for so long as to the extent of the commerce power of the Federal Government and how far we should apply it under this law.

Mr. ROOSEVELT. I would say to the gentleman, that attorneys can always disagree, but I also know we have made legislative history on the matter, which, to me, makes it very clear as to the intent of the authors of the bill and those who have cooperated in putting it together.

Mr. GOODELL. May I say the history of these labor bills is that you make a legislative history and then the Labor Department goes about expanding their power just as far as it can go. There is a very good illustration of that in this little controversy we had earlier this week about the distinction between service and retail establishments when the Labor Department since 1938 have by official bulletins and otherwise distinguished service from retail establishments and listed service establishments, specifically including hotels and motion picture theaters. Then this week or last week the Labor Department made the statement that they have never distinguished them. I do not think we ought to write legislation on this floor which depends on the discretion of the Secretary of Labor to limit the jurisdiction of the Federal Government.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from California.

Mr. ROOSEVELT. I would agree with the gentleman. If I thought that, I would not be wanting to insist on this language. However, if the situation should ever arise that the gentleman has pointed out, I think we would do exactly what the gentleman, or rather what the gentleman from Ohio [Mr. AYRES] and the gentleman from North Carolina [Mr. KITCHIN] have done—they would take the necessary legislative action to make it clear. If that situation arises, we would be forced to do so. However, I can see no possibility of that at this time.

Mr. GOODELL. Yesterday at the very last moment, this bill was introduced.

Mr. ROOSEVELT. The gentleman would agree that the other bills were introduced at almost the same last moment, would he not?

Mr. GOODELL. Oh, no; you mean the substitute bill?

Mr. ROOSEVELT. Mr. AYRES and Mr. KITCHIN's last substitute bill.

Mr. GOODELL. The substitute bills have been exactly the same from the beginning with one exception. When the Labor Department started running away from its own history, officially documented for 22 years, we decided we had better not leave discretion with the Secretary of Labor in this field and we had better pin him down in the act itself. That was the main change made.

Mr. ROOSEVELT. They did not submit it for the committee's consideration.

Mr. GOODELL. The committee has considered this in the past and so has the Labor Department.

Mr. HIESTAND. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from California.

Mr. HIESTAND. Returning to this clause on page 4 "which require or depend on shipments of goods in commerce", that clearly includes purchases as well as sales. The purchases of goods may have been in Los Angeles, referring to the example that has been used here, but those goods may have been made in New York, and it clearly enters interstate commerce under that definition. Can we say that this clause is put, since it is all-inclusive and will exempt nobody—can we say it is put in just as a meaningless gesture?

Mr. GOODELL. I have a suspicion along that line because we have had so much discussion about intruding the Federal Government into places it does not belong that they have come up with a clause which purports to limit the intrusion of the Federal Government and actually probably does not limit it at all. As a matter of fact, it may expand it. But yesterday when this substitute bill was introduced I said to the gentleman from California that there was some language that had not been considered by either our subcommittee or the full committee. I quoted it to him. It was the words "require or depend on shipment of goods in commerce." The gentleman from California responded, and I quote him:

May I first point out to the gentleman from New York that if he will look at the

committee bill he will find reference to "per centum across State lines" in many parts of the bill before us. Therefore, it has been considered and it is not a precedent.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield.

Mr. ROOSEVELT. Does the gentleman remember the part of the bill which had these words in it:

Any employee employed by an establishment which qualified as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located.

That is the same principle.

Mr. GOODELL. I do not think it is the same principle. You have that same clause in section 13(a)(2) and in 13(a)(4) which the gentleman just quoted. These are the provisions relating to 50 percent of sales made within the State. In 13(a)(4) the language reads "85 per centum of goods made or processed within the State." There is a big difference in the clauses there between sales made within the State and sales or services which require, or depend on, shipments of goods.

Mr. ROOSEVELT. What we are talking about here is the percentage of goods that crosses State lines. The reference in this section is to interstate commerce.

Mr. GOODELL. The gentleman will concede, then, that the phrase "which require or depend on the shipment of goods in commerce" does not appear in any Federal statute and does not appear in the committee bill.

Mr. ROOSEVELT. I cannot tell; I have not examined all the Federal statutes. It is not in my bill.

Mr. GOODELL. If I may say so, that clause "which require or depend on shipment of goods in commerce" is going to be wide open to court interpretation, and they are going to legislate a completely new field of Federal jurisdiction as a result of it; and the very meager legislative history that we are able to make on this floor will not restrict that jurisdiction significantly.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. I appreciate the points the gentleman has raised. I would like to call attention to the fact that we have now spent almost 6 hours in debate on this and other bills, and there has as yet, been no particular discussion of the new Democratic leadership bill, the Albert bill. As the gentleman from New York has pointed out, this bill substantially changes the committee bill, and is differentiated from the Roosevelt bill or any other that is up before us, and I fail to understand how we can get to this stage of the discussion without some advocacy of what presumably we will be expected to vote on, and be asked to approve in a very short time.

Mr. GOODELL. I thank the gentleman from New Jersey. I share his frustration; and I might say that just a few moments ago the gentleman who introduced this bill, the gentleman from Oklahoma [Mr. ALBERT], made the statement that it contains the basic principles of the committee bill, but that there are substantial exceptions. We have had no discussion here about what the "substantial exceptions" are. They have not been considered in committee, and we are dealing with a very complicated and new clause. We should understand what is included within the scope of this expansive language.

I am very fearful of it.

Mr. FRELINGHUYSEN. As members of the committee and as Members we are entitled to know what is in the bill, and what changes are being proposed. I would like to ask someone who is sponsoring the Democratic leadership bill whether there is any truth in the teletype announcement that "House Democratic leaders made a new concession today and picked up the support of an influential southern Congressman for their drive to pass a trimmed-down version of President Kennedy's minimum wage bill" by agreeing to delete and exempt all laundry workers from coverage. Is that true or not; and is it not about time we had discussion of it?

Mr. GOODELL. One of the things that troubles me most about this whole procedure we have been following is that it is apparent now that instead of writing minimum legislation we are vying as to who can make the most concessions to special interests who want to get out. We are not writing good legislation.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from California.

Mr. ROOSEVELT. Of course, it depends entirely on who is doing this type of activity, because, as our distinguished majority leader pointed out, when the Landrum-Griffin bill came out, it was brought on the floor at the last minute. When the Kitchin-Ayres bill was up last year for consideration we had the same situation. But this year when it happens to be the Democratic leadership that is doing it, gentlemen across the aisle do not like it so much. But this is part of parliamentary procedure, and I think the gentleman knows that. We will be able to discuss it under the 5-minute rule. It will be thoroughly debated. I might also point out to the gentleman if he is at all worried about the use of the language, he might go through and read, for instance, on page 40 of our committee bill, wherein Puerto Rico and the Virgin Islands sections are set out. We definitely talk about production of goods for commerce, where they appear, or in any enterprise engaged in commerce or the production of goods for commerce.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. KEARNS. Mr. Chairman, I yield the gentleman an additional 5 minutes.

Mr. ROOSEVELT. Let me complete my statement. I think that the gentleman

very conveniently always forgets when he says we can go out and apply it to all business, that there are specific limitations, and I emphasize the limitation of \$1 million as well as the \$250,000 cutoff.

Mr. GOODELL. That is my very point, the point I tried to make here, and I think it is a point every Member of this Congress should understand. When you come right down to it, the only reliance you have on keeping these smaller local operations out of Federal control is your volume sales in dollars and as soon as you start moving that figure down they are all coming under it. In this Albert bill you have now introduced it is exactly the same thing; it is not changed. It depends on the volume of sales in deciding whether the Federal Government has Federal jurisdiction or not, and it will not protect our local industries from the Federal invasion we are concerned about as a basic principle.

May I say that I have consulted very good labor lawyers on this point, men whose names would be known to a good many Members here, and they have told me that in their opinion the language which you have added here, putting it on the basis of shipments in commerce, may very well expand jurisdiction, not contract it. That is the type of thing which needs careful analysis in committee hearings.

May I say to the Members of this House that, in my opinion, the Albert bill is merely an attempt to divide and conquer. The obvious objective of the gentlemen who are presenting the committee bill is to expand Federal jurisdiction as far as they can. They are willing to make any concession today in terms of special exemptions, in terms of exclusions, in terms of the size of the dollar volume test. What they are going to do as soon as they get this principle of Federal jurisdiction established is move those exemptions out of the picture, bring down the dollar volume until every local enterprise is covered by this law. Perhaps I misstate your motivations, and I would be happy to have you speak on them on your time, if you will.

But, my main point remains that whether those are your present motivations or not, all you need do, if we accept this bill, is to reduce the dollar volume figure to accomplish that precise result of putting all our purely local enterprises under Federal jurisdiction. I will have to fight that as long as I have breath to stand here and argue about it.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. I just wondered if the gentleman would not also recognize the fact that "25 percent of whose volume depends upon goods in interstate commerce" is also an important distinction present in this language.

Mr. GOODELL. I do not think it is an important distinction. The point is, if you say "depends on," it virtually brings in everything; as I say, the things in my own home.

Mr. EDMONDSON. Is the gentleman seriously contending that there are no

retail outlets that do not depend on 25 percent moving in interstate commerce? I am thinking of the retail outlets on the highway, for instance, selling local products, such as fruits and pottery and things of that kind. You see them constantly on the highway.

Mr. GOODELL. You are putting this in the discretion of the Secretary of Labor, and I cannot think of any broader language than the words "depend on commerce." He will expand this as far as he can. They will send a wage and hour man into this man's place of business on the highway and say, "Where did you purchase this merchandise?" and force him to make an inventory of where he got it, if it came from in or out of the State, and the merchant will have to prove that he bought more than 75 percent of his merchandise within his own State. Now, that is not the kind of a situation we want.

(Mr. ROBISON asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ROBISON. Mr. Chairman, coming from the great State of New York, whatever extension of the Federal minimum wage and hour laws we may now decide to make into the retail field will be of no particular effect in my home district. We presently have a statewide \$1 minimum wage law, which minimum has been in effect in our larger cities for several years insofar as the retail trade is concerned.

However, I recognize that few States in this Union are as progressively minded as is New York, and I am inclined to believe that the Federal Government has a proper concern in this problem. It is our duty, as I see it, in determining what extension to make of coverage, to make sure that we do not do violence to the constitutional limits of that concern.

Although the matter has been hotly disputed by the proponents of the committee bill, H.R. 3935, it is my judgment that the philosophy which is therein embodied; namely, that the only thing necessary to justify Federal minimum wage and hour law intervention into the retail and service fields is that such an enterprise do a certain dollar volume of gross business a year, sets up both an arbitrary and an unconstitutional standard. It is a standard that potentially could and, if we decide to use it, undoubtedly would wipe out all State jurisdiction over labor standards in a few more years.

As I have studied this issue of extension therefore, I have concluded that the five and two or interstate commerce test that was embodied in the original Kitchen-Ayres substitute, so-called, is much more preferable. Perhaps it could be said that it, too, is in a sense an arbitrary standard as of course it is, but nevertheless it does seek to limit Federal control over wages to what most of us have always considered to be interstate commerce, as the gentleman from North Carolina [Mr. KITCHIN], has just explained it, and so there is little wonder that it has captured the imagination of those of us who have sought to do just that. What that test fails to recognize,

however, is that regardless of ownership one store must compete with the store next door, and that, at least on the level of small business, retailing is essentially a local proposition which cannot be separated into national versus local ownership.

As the various proposals spread before us began to narrow down to the committee bill and the Kitchen-Ayres substitute, it seemed to me more and more that the only formula upon which a majority of us might possibly agree would be a combination of the five and two test of the substitute with some sort of a gross dollar-volume cutoff. Accordingly, earlier this week I introduced my own bill, H.R. 5719, which embodied the bistate test in conjunction with the exemption of those retail outlets of a chain of less than 15 stores that did less than \$250,000 business a year, lifted out of the committee bill.

Further study of the problem convinced me that this, too, was not the answer I sought, and that there was no real justification for limiting that dollar cutoff to the smaller chains, so on yesterday I introduced the same measure but without the less-than-15-store standard. That new bill is H.R. 5888, and I regret that, with so many of us burdening the printer with our last minute thoughts on this complex problem, copies of it are not now available, but I am delighted to now note that the proposal I have made may now become the new Kitchen-Ayres substitute and that it will receive serious consideration.

Mr. ROOSEVELT. Mr. Chairman, I take great pleasure at this time in yielding 5 minutes to the gentlewoman from the State of Washington [Mrs. HANSEN].

Mrs. HANSEN. Mr. Chairman, President Kennedy, while a Member of Congress, said:

When we permit the growth of a depressed class numbering millions whose members cannot afford the bare necessities of life, we pay a heavy price. We undermine the general prosperity of the Nation which rests upon consumer purchasing power, we promote the spread of slums, of crime, of disease, of all ills that grow from hopeless poverty.

Let us direct our attention to the actual human beings the President was talking about. They are not statistics but real people with real problems. The Bureau of Labor Statistics found, in 1959, that it required over \$5,000 a year to maintain a family at a modest level of living. Yet all that we legally require, under the present \$1 minimum, is that covered workers be paid at a rate which yields an income of less than half of this amount.

Over a million workers in manufacturing industries now earn less than \$1.15 an hour, and about 804,000 of the employees who would be newly covered by the bill are paid less than \$1 an hour. We don't know how they manage. Either they are living on inadequate diets, postponing urgent medical treatment, or skimping on other necessities that most of us take for granted. The vicious cycle of substandard existence is made up of many elements, and each element is aggravated by others. Deprivations in areas of diet, health, hous-

ing, clothing, and education have a snowballing effect, and the end result is that it becomes more and more difficult for the victim to lift himself out of his depressed state.

The one important common denominator that we find in these situations is low income. In a very real sense, this is the key to the whole problem. People who live in slums and who exist on substandard diets don't do it for pleasure. They would prefer—and this is what actually happened when minimum wage protection was applied in the past—they would prefer to pattern their lives more closely after the accepted American standard, and abandon that poverty which breeds slums, crime, and disease.

It would be unrealistic to maintain that the present bill will entirely remove the evils I have been discussing. Poverty has many causes, and must be fought on many fronts. It is equally clear, however, that the problem is sufficiently critical to the Nation's future—to the future of those free institutions we cherish—that we must not hesitate to take a step, even if small, to help us achieve our goal.

Mr. ROOSEVELT. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. MAGNUSON].

(Mr. MAGNUSON asked and was given permission to revise and extend his remarks.)

Mr. MAGNUSON. Mr. Chairman, I rise in support of the committee bill, H.R. 3935, which would extend Federal minimum-wage protection to some 4,311,000 workers presently not covered by such protection. Under this bill, coverage is extended to include five categories of enterprises engaged in commerce or the production of goods for commerce.

May I point out that we are dealing with a minimum wage; that is to say a wage floor upon which the actual wages paid to workers in covered industries may rest, but below which it may not fall. Although in some areas the minimum wage allowable becomes the actual wage paid to workers, this ought not to be the case, for the amount specified as a minimum wage—in this case \$1.25—is to be considered a bare minimal subsistence wage. Between 1956 and 1960, the Consumer Price Index rose by 11 percent. The real product per man-hour in the private sector rose by 13 percent during the same period. Thus, even were the escalator provisions lacking, the proposed increase would raise the minimum real wage only to a point comparable to that of 1956.

In a recent editorial, the New York Times noted that "the establishment of a minimum wage for those unable to protect themselves is a long accepted and necessary function of the Federal Government." Here it seems proper to note especially that a minimum wage is most important to those workers who are not sufficiently organized to protect themselves, workers whose capacity to produce entitles them to a living wage but whose condition of employment precludes their demanding it.

Even the \$1.25 figure falls below that which would be necessary to meet what the Bureau of Labor Statistics and the agencies of the various States have designated as ample to maintain a "modest but adequate" level of living, even for a single person, and far below that necessary for the support of a family. In Seattle, for example, the bureau sets the wage needed to support a family of four at \$6,562, while that of a single person—female—stands at \$3,005.

The effects of the proposed increase are not expected to be adverse to industry. Past experience has shown that such increases have tended to stimulate rather than depress business. Retail employment in the State of Washington in 1959—the year the minimum wage was raised to \$1 per hour for the retail trades—increased by 4.5 percent and increased an additional 3 percent the following year, almost twice the rate of employment increase in other industries in the State. Despite warnings by those who opposed minimum-wage legislation in 1956, the Wage and Hour Administrator afterward informed Congress that of the 2,100,000 employees affected, less than 2,000 were discharged or otherwise adversely affected.

By the provision for a base annual volume of sales of not less than \$1 million marginal industry is exempted specifically from coverage under the bill. Special protection is provided further for the marginal worker. While oppressive child labor expressly is prohibited in the bill specific exemption is made in favor of the employment of full-time students at less than minimum rates in retail establishments on two conditions: First, that the work fall outside school hours, and second, that the employment not be of a type normally given to full-time employees. In addition—under section 14—the Secretary of Labor is permitted to make special provision for the employment of learners, apprentices, or of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury. This exemption has been included in the bill to avoid the curtailment of opportunities for employment for those who possess a capacity to produce without entering directly into the competitive labor market.

As a further cushion to the business community, an escalator provision has been included in the bill. Accordingly, those already covered by minimum-wage legislation will receive an increase to \$1.15 during the first and second years after the effective date with an increase to \$1.25 thereafter. Those workers newly covered will receive a minimum of \$1 the first year, with subsequent increases each year reaching the standard \$1.25 after the third year.

Another result of the enactment of minimum-wage legislation well might be a leveling effect upon the national wage structure. In Seattle and other areas of the country where the trade unions have long been active, where the working force has developed high technical skills, and where labor's bargaining position is relatively better, living standards and wages have been elevated

proportionately. Thus, these areas are placed at a competitive disadvantage with some other areas of the country which possess an abundance of unskilled or semiskilled labor, where producers are able to make a profit only at the ultimate expense of employees to whom they pay a bare subsistence wage. By raising the rate and extending the coverage of the minimum wage, the committee bill may produce a more equitable balance in the national industrial complex, while raising the standard of living for presently ill-compensated workers and encouraging a higher degree of competence.

Mr. ROOSEVELT. Mr. Chairman, I yield 1½ minutes to the gentleman from Colorado [Mr. ROGERS].

Mr. ROGERS of Colorado. Mr. Chairman, I asked recognition for the purpose of getting an interpretation of the two bills we have before us for consideration. On page 42 of the Roosevelt bill there is reference to enterprises, hotels, motels, restaurants, or hospitals, and the same definition is included in the Albert bill. What I want to know is, would this apply to dude ranches, seasonal operations such as we have in the State of Colorado, which operate for only 3 to 6 months of the year?

Mr. ROOSEVELT. In my opinion, both the section the gentleman referred to, and on page 20, line 24, the seasonal exemption, as I understand those operations, would apply to them.

Mr. ROGERS of Colorado. What the gentleman refers to is in the Albert bill on page 20. It refers to any employee employed in an amusement or recreational establishment that operates on a seasonal basis. It is exempt because it is recreational?

Mr. ROOSEVELT. I believe the gentleman is correct. It would be construed as a recreational institution.

Mr. ROGERS of Colorado. I thank the gentleman.

Mr. ROOSEVELT. Mr. Chairman, I yield as much time as he may consume to the gentleman from New York [Mr. ANFUSO].

(Mr. ANFUSO asked and was given permission to revise and extend his remarks.)

Mr. ANFUSO. Mr. Chairman, we have heard many reasons for improving the minimum wage offered by labor and enlightened businessmen. We have also heard the reasons why certain trade federations oppose the modest improvements contained in the Labor Committee's bill. It is time we considered the views of consumers. Often the trade federations, stating their opposition to this legislation, attempt to speak for the consumer. They argue that the modest minimum wage improvements would be inflationary and therefore contrary to the interests of the consumers.

I think it would shed considerable light if we listened to the consumers themselves on this point, rather than the spokesmen for industry.

In looking over the hearing record of this Congress and past Congresses, I am struck by the fact that not one single consumer organization has come forward to oppose minimum wage improve-

ments. On the contrary, several organizations representing consumers voiced strong support of the legislation this year and in past years. These groups completely rejected industry's inflationary arguments.

One of the very strong points they make is to point out that the impact on total U.S. payrolls of the proposed legislation would be very slight. This is a very important concrete point to keep in mind.

In the first year after enactment, the Labor Committee's bill would add \$550 million to the buying power of low-income families. This figure represents a minute increase in relation to total U.S. payroll today—merely one-half of 1 percent of total wages and salary payments. During the subcommittee's hearings, the spokesman for the National Consumers League stated:

We do not believe that wage increases of this magnitude would have an inflationary impact.

She went on to point out that—experience in the States shows that even larger proportional increases in wages have been offset without difficulty because of the increased efficiency they have stimulated.

The lack of inflationary effect of past minimum wage increases is borne out by the intensive study made by the U.S. Department of Labor after the increase of the minimum wage from 75 cents to \$1 an hour in 1955. The Department reported to the Congress that there were no noticeable effects on either the wholesale or consumer price levels.

And what about the effects of minimum wage on the retail trade industry? A detailed study was made by Prof. Arnold Tolles, of Cornell University, when New York State issued a minimum wage order for \$1 an hour for the retail trade several years ago. Professor Tolles found in interviews at 50 retail food stores in New York State that "none of the managers of these stores reported any increase in consumer price markup as a result of the increased minimum wage."

He paid particular attention to 42 stores where the minimum wage order had an especially large impact. In those stores he found that "only 5 of the 42 store managers even claimed that prices to consumers had been raised because of the wage order. Professor Tolles concluded flatly that "There was no evidence that the wage increase contributed to price inflation."

No evidence whatsoever exists from past experience that the cost of minimum wage improvements were passed along in toto or in large part to the consumer. But let us assume for the moment that this were to occur. The total increase of the Nation's price levels would be less than 1 percent—less than 1 percent. This is hardly inflation. But, as I have said, not even this minute increase will occur.

The consumer groups also point out several other important economic factors which obliterate completely the inflation hobgoblin. For example, they point to the fact that the increased purchasing power resulting from the improvements in the minimum wage would

be placed in the hands of low-income people who will use the additional money to buy food, clothing, and other necessities of life.

These types of goods are in excessive supply today and have been for some time past. Therefore, rather than bidding up prices by competing for scarce goods, low-income people, helped by this bill, will actually relieve the Nation of the burden of many stockpiled agricultural surpluses. And they will give a needed stimulus to the clothing and textile industries.

It is much to the consumer witnesses' credit that although they have proved no price increases will result from the minimum wage increase, they have categorically stated that they would not mind paying somewhat higher prices because they "do not want a bargain at the expense of the men and women who produce the goods we buy." That is what the consumer witnesses told the subcommittee, "we do not want a bargain at the expense of the men and women who produce the goods we buy."

I think we would do consumers a great injustice if we were to take the trade associations' word that substandard wages protect consumers from price increases. I think the evidence the consumers themselves have offered is conclusive that they are not the narrow-minded, self-interested group the opposition to H.R. 3935 would like us to believe.

I therefore urge my colleagues to follow the urgings of the consumer witnesses and approve the committee's minimum wage bill.

Mr. ROOSEVELT. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. COHELAN].

(Mr. COHELAN asked and was given permission to revise and extend his remarks.)

Mr. COHELAN. Mr. Chairman, we have heard a lot about the inflationary effects of higher minimum wages. Our Chamber of Commerce friends insist that if wages are raised, business must increase prices or lay off workers. They generally ignore the great benefit which the economy derives from the minimum wage by stimulating improvement in industrial efficiency.

I am glad to say that our experience in the past has proved the Chamber of Commerce to be wrong. What are the actual facts, as established by the Labor Department studies? The facts are that the number of layoffs following the increase in the minimum wage to \$1 in March 1956—layoffs which could be attributed to the higher minimum wage—was negligible. And what happened to the prices of commodities produced in industries where workers received wage increases because of the increase of the minimum wage to \$1? The Labor Department study shows that between January 1956 and January 1957, the index for prices of commodities produced in low wage industries rose less—2.6 percent—than the index for all commodities which rose 4.5 percent. The Labor Department report goes on to say:

During the longer run period, January 1956 to January 1960, there was virtually no

increase in wholesale prices of products of low-wage industries while the increase in the index for all commodities was 6.6 percent.

The low-wage industries which produce these products were able to adjust to their increased wage cost without raising prices. As a matter of fact, by mechanizing and generally improving their operations, these industries have placed themselves in a stronger economic position. This was proved during the 1958 recession and is being proved again today by the fact that they have not suffered as much as the high wage industries.

Nineteen hundred and sixty report by Secretary Mitchell submitted January 19, 1961

Report submitted to the Congress in accordance with the requirements of Sec. 4(d) of the FLSA page 20.

Mr. ROOSEVELT. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. RYAN].

(Mr. RYAN asked and was given permission to revise and extend his remarks.)

Mr. RYAN. Mr. Chairman, I hope this House will give approval to H.R. 3935. There is abundant evidence of an urgent need for this legislation. For some years the Congress has considered proposals to amend the Fair Labor Standards Act. During the last Congress the failure of Congress to resolve the differences in conference resulted in frustrating the will of the majority, which had passed different versions of this legislation. We are obligated, it seems to me, to the many segments of our population who are deprived of the protection of the Fair Labor Standards Act to take action, and to take action now, to extend the benefits of this humanitarian legislation. Rising living costs and increased productivity justify this long-overdue legislation. Increased wages for thousands and thousands of workers means increased consumer spending and greater economic growth, which should help bring the Nation out of the recession.

H.R. 3935 represents a constructive advance. I would have preferred that we have a minimum wage of \$1.25 now, not 2 years from now. This would yield approximately half a billion dollars increase in wages the first year instead of \$240 million, which is now expected. I also believe the coverage should be extended to workers not included. Few of us stop to consider that 22 years after the Fair Labor Standards Act became law only about one-half of the American workers are protected under it.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. RYAN. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Is it not the understanding of the gentleman from New York that the Democratic leadership has abandoned H.R. 3935 for the so-called Albert substitute? As I understood it, the majority leader yesterday said the fight today would be between the Albert bill and the Ayres bill. Presumably the Roosevelt bill has been abandoned. Is that not the gentleman's understanding?

Mr. RYAN. As I understand the situation, we are now debating H.R. 3935, and that is the bill to which I am addressing my remarks. I should like to point out there are millions of workers in restaurants and hotels and motels who are not covered. We also have the situation, which has been dramatically brought to public attention, of migrant workers throughout the country who are not covered. These are matters to which I hope we will address ourselves in the future.

Mr. Chairman, now for a moment I should like to make a few observations regarding those provisions of this bill which deal with Puerto Rico and the Virgin Islands. I believe it is well known that the Fair Labor Standards Act has a special provision for these areas and provides a means of setting minimum wages in the different industries there. There are special tripartite industry committees composed of representatives of employers, employees and the public, who are appointed by the Secretary of Labor, which hold meetings and review the evidence and recommend minimum wage rates in the industries. This provision was written into the law in recognition of the peculiar conditions found in Puerto Rico and the Virgin Islands. However, past experience has shown that whenever Congress raised the minimum wage, corresponding wage revisions in Puerto Rico and the Virgin Islands lagged behind—not because the local employers were not able to meet the higher rates, but purely due to administrative difficulties. It takes time to get people to agree to serve on the committees. It takes time to get committees to meet after they are appointed. It takes time for the committees to hold hearings and to reach decisions and for final orders to be entered and to become effective. Thus, after minimum wage rates become effective for the mainland, Puerto Rican industries sell their goods on the mainland and compete with firms in every State of the Union and obtain a competitive advantage. But, more importantly, their employees do not receive equal treatment with employees in comparable industries in the States.

H.R. 3935 seeks to remedy this defect. But, at the same time, it does it in a judicious manner. It provides for the same automatic percentage increases in the existing minimum wages in Puerto Rico and the Virgin Islands as are provided in the States—15 percent for the first 2 years, then 10 percent. But, at the same time, it safeguards against possible inequity by providing that the Secretary of Labor can convene tripartite review committees to reexamine the floor which would otherwise be imposed on the industry by the percentage increases. The review committees after the examination of evidence, may recommend a wage to supersede the percentage increases, provided, of course, such wage does not exceed the stateside minimum. I commend this section to the Members of this body.

I believe H.R. 3935 is a constructive step forward.

We have heard prophecies of doom from those who oppose the basic con-

cept of minimum wage legislation ever since the fair labor standards law was enacted in 1938. With each proposal for an increase in the minimum or an extension of coverage, no matter what the economic circumstances of the time, dire predictions blossom forth. This opposition is rarely, if ever, directed to the merits of the legislation; it seems to be merely opposition to change, voiced by those of tired ideas. Abundant experience under this legislation has proven it to be most salutary. As we move forward into the 1960's, let us turn deaf ears to false prophets. We have tarried long enough; the time to amend the Fair Labor Standards Act is now. The way to do it is the measure before us—H.R. 3935. And I urge my fellow Members to support this legislation.

Mr. KEARNS. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa [Mr. JENSEN].

Mr. JENSEN. Mr. Chairman, I learned early in life that, the only fair way, the best way, yes, the American way to insure for oneself the most permanent progress, promotions and thus an increase in wages, was for me and all wage earners to do a little more each day than my boss expected me to do. That, Mr. Chairman, was the position taken years ago by an overwhelming majority of our wage earners and which lent greatly to the upbuilding of our free private enterprise system which made our Nation the freest, the strongest, and the greatest nation on the face of this earth.

However during the past almost three decades, and since the powerful union labor czars have forced private industries who employ a total of around 14 million men and women to pay a wage, generally speaking, not commensurate with productive worth to their employer all of which was forced through strikes and intimidation, to the end that, the employer was obliged to agree to such demands or close their doors, sometimes for long periods and too often permanently. The final result being to so greatly increase the cost of manufactured goods to the points that the price is so high on such produced goods as to stifle the purchase of such goods, and, impossible to compete with much foreign imports, produced by much lower paid wage earners.

Hence as time goes on this problem multiplies itself by leaps and bounds. You may ask why don't Congress do something about it, Congress has earnestly tried, by adopting the Taft-Hartley Labor Relations Act and the Landrum-Griffin bill, but the facts are most of the horses had already been stolen before the barn door was closed. Now we have before this House a minimum wage bill which seeks to force millions of free private enterprise businesses under Federal domination even to a greater degree than all the Federal burdens they are already carrying on their overloaded shoulders.

Mr. Chairman, our Founding Fathers never intended that the Federal Government interfere in the relations between employer and employee, when they established for America our free private enterprise system of government. There is no question Mr. Chairman that, if

the bill now before the House is made law, thousands upon thousands of our smaller retail and service establishments will be forced to do one of three things: (1) Sufficiently reduce the wages of their present employees whose wages are now more than \$1.25 per hour; (2) fire a sufficient number of their present employees in such numbers as to hold their total wage costs to the present level, or (3) the employer has yet that great and free American privilege of closing shop.

Therefore, I shall most certainly vote against this bill, which I'm sure if made law, will be greatly detrimental to millions of our wage earners and employers alike.

Mr. KEARNS. Mr. Chairman, I yield 6 minutes to the gentleman from Ohio [Mr. AYRES].

Mr. AYRES. Mr. Chairman, it has been my privilege to be a member of the Committee on Education and Labor since 1957. During this time I have been a member of the subcommittee handling minimum wage legislation. In the past 4 years, I have attended 149 hearings on this legislation. The bulk of those hearings, of course, were held prior to this Congress. However, the information we gained under the leadership of our late colleague, Mr. Kelly of Pennsylvania, and under the leadership of Congressman LANDRUM of Georgia, and during this brief span under the chairmanship of the gentleman from California [Mr. ROOSEVELT], I do feel we have adequate information to discuss and to pass this legislation.

However, I am more concerned in the last few minutes than I was previously. There is no doubt if the House understood clearly and specifically what was in the so-called Kitchin-Ayres substitute, they would pass it this year the same as they did last year. I felt that if we were to pass this legislation it might possibly be changed in conference. However, this has just come across the ticker tape, and I quote:

The Kennedy administration called today for House passage of a compromise bill which would raise the minimum wage to \$1.25 in 2 years, but limit new coverage to 3.8 million more workers. Labor Secretary Goldberg announced the administration position in a statement which he said had the President's approval but—

And this is the most important part—Goldberg indicated the President still hoped to achieve the administration's objective and an extension of the coverage to 4.3 million workers through Senate action and a Senate-House compromise.

This makes it more important than ever that the concept contained in the Ayres-Kitchin amendment pass this House; otherwise, we have nothing to bargain with in the conference. You talk about the \$1 million test; there is no doubt in my judgment but what the other body would lower that to \$500,000, and then we would be in conference deciding whether we could agree on some figure between \$500,000 and \$1 million.

I think the Secretary of Labor has made it very clear as to what his position will be.

What is the basic issue? The basic issue is whether or not the Congress of the United States is going to blanket

every business in this country under a dollar volume test or confine extended coverage to interstate commerce. Actually there is not any argument over the rate at this time, and I am not one of those who is going to be critical of the President for what he said last night on television. I think it was a misunderstanding on his part, but he has been saying the same thing so often—and I am glad that the House has finally advised him about it. You heard yesterday what he said in New York on October 19, 1960. These are his exact words:

We fought in the last Congress for a bill to provide \$1.25 minimum wage for restaurant employees, retail services and all the rest. Mr. Nixon says it is extreme. I do not think \$1.25 an hour for someone who is working in a business which makes \$1 million a year is an extreme wage.

Since last October he has been saying this, and it was only natural that he should say it the same way last evening, but I think we all understand that the test is gross volume in dollars.

However, we are not talking about \$1.25 for these workers; we are talking about \$1.15. That is all there will be under any of these bills that are proposed before the Congress now. It will be 2½ years before \$1.25 will become effective, and I know it is the consensus of a great many Members, including myself. Should my people send me back 2 years hence and conditions warrant it, one of the first bills I introduce will be to increase it to \$1.25.

The real issue is how are we going to determine the expansion of this bill. What do we consider? What is fair and equitable? We extend coverage to strictly the interstate retail establishments. We have then a formula within the Constitution.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. KEARNS. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. AYRES. Mr. Chairman, under the amendment that will be offered only those employees working for an employer who is operating five or more establishments in two or more States will be covered and, then, even under that concept those establishments in an enterprise doing less than \$250,000 will be exempt. This exempts the small operator even though he might have a number of establishments. We felt that was the only fair thing to do. We thought of doing it last year. Both Mr. KITCHIN's amendment and mine include this provision. Other than that, this is almost an identical bill that this House passed last year by a vote of 211 to 203. Being honest with yourself, if you supported this proposition last year, if you agreed with this concept of interstate commerce, frankly I do not know how you can in clear conscience reverse your position by dollar volume coverage. When the bill is offered a more detailed discussion will be made under the 5-minute rule.

Mr. ALGER. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from Texas.

Mr. ALGER. Mr. Chairman, I must say to the gentleman I am impressed

by what he has said here and by what the gentleman from North Carolina stated. Some of us regardless of the difference in various areas, at least, I am, are concerned about any type of minimum wage at this time, not because we are unaware of the fact we want people to have as much income as they can get, but because of the economic situation.

Does not the gentleman think those of us who are opposed to any minimum wage, in trying to bring out a bill, might get behind the gentleman's version because it is economically more sound than the alternatives offered by the other side, and protect the freedom of the individual worker and, for that matter, help the workers by not causing more unemployment because of the coverage going too far by the other side?

Mr. AYRES. I thank the gentleman. He is absolutely right. As I pointed out, if you don't adopt the Ayres-Kitchin approach to the interstate commerce concept and cover those with five units in two or more States, then we have nothing to argue about in conference except how much broader you will make it.

Mr. ALGER. In good conscience we could support the Kitchin-Ayres bill and then again, in our own dedicated belief, oppose that bill in the final analysis?

Mr. AYRES. That is correct.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. I wish to congratulate the gentleman for a very able presentation. He has stated what he feels is the major issue. I wonder if the gentleman would not agree with me also that perhaps there is also what might be called a subsidiary issue. Are we not being asked to buy a pig in a poke? We have used up almost 7 hours of general debate. Yet there has been no discussion on one of the major alternatives presumably to be presented. Under the 5-minute rule, perhaps, we may have discussion on the Democratic leadership bill. I think one minor issue is why we have not had that kind of discussion up to now.

Mr. AYRES. I agree with the gentleman that under the 5-minute rule the bill should be explained.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from California.

Mr. ROOSEVELT. The definition of a retail establishment which is in section 2(a) of the revised Ayres-Kitchin bill it seems to me can lead to absurd results. If there are five establishments, each one of which does 75 percent retail selling, under your bill all employees are covered. However, if there were four establishments selling 75 percent or more at retail, and one establishment selling 65 percent retail, then there would be no coverage; is that not correct?

Mr. AYRES. I yield to the gentleman from New York [Mr. GOODELL] to answer that question.

Mr. GOODELL. Yes, that is correct.

Mr. ROOSEVELT. There we have a typical picture of the results under the Ayres-Kitchin bill.

I want you all to understand that, that 1 out of the 5 could go to 65, and then all of the 5 would be exempt from the bill.

Mr. GOODELL. I think the example is rather absurd. The definition of a retail establishment that is in the present law is that they must do 75 percent of their business at retail and not wholesale. Of course a wholesale establishment is not counted in the five and two test.

Mr. AYRES. Mr. Chairman, it is very apparent that the gentleman from California has not had any experience in the retail field from the example he tried to draw.

Now, I have been asked why the gentleman from North Carolina [Mr. KITCHIN], and I introduced as an amendment a slightly different version than the bill that passed the House last year. The basic reason for that change was the propaganda that was going out against the bill.

On March 17, 1961, I, as well as every other Member of Congress, received a letter signed by Mr. ROOSEVELT, Mr. SMITH, and Mr. PUCINSKI in which they made wild claims about what was covered in the bill. Many of you received wires from motion picture operators, Western Union operators, and hotel clerks asking just what the bill did do. On page 2, line 17, of the amendment and from there on through, you will find listed those enterprises that are exempt, and we will discuss this in more detail under the 5-minute rule.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. On page 4369 of yesterday's RECORD there is a list of about 30-some-odd-million-dollar concerns including the Higbee Co., of Cleveland, with \$52 million business, and the Fischer Co., of Cleveland with \$98 million, with the statement that these are not covered in any way by your minimum wage proposal; is that right?

Mr. AYRES. I do not believe the Fischer Co. operates in interstate. None of those two would be covered. The average rate paid by Fischer is \$1.06 and the average rate paid by Higbee is \$1.26. And, I believe, they are both organized and pay overtime.

Mr. EDMONDSON. Are these concerns, along with others, excluded from the operation of your bill?

Mr. AYRES. Any store operating strictly intrastate would be exempt, and they should be.

Mr. EDMONDSON. I thank the gentleman for making this point clear in his bill.

Mr. ROOSEVELT. Mr. Chairman, I yield such time as he may desire to the gentleman from West Virginia [Mr. BAILEY].

(Mr. BAILEY asked and was given permission to revise and extend his remarks.)

[Mr. BAILEY addressed the Committee. His remarks will appear hereafter in the Appendix.]

Mr. ROOSEVELT. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. SANTANGELO].

(Mr. SANTANGELO asked and was given permission to revise and extend his remarks.)

Mr. SANTANGELO. Mr. Chairman, I rise to support the Albert amendment—H.R. 5900—which is going to be substituted for the Roosevelt bill. I do so because I feel that it is very necessary to our country to have an increase in minimum wage to \$1.25 in two steps and also to extend coverage and grant a \$1 minimum for that segment of our population which does not have the purchasing power today. The Albert bill will cover about 4 million people. It will cover most of the retail organizations.

It was said many years ago that when the snows melt you see the dirt, and after 8 years of snow we have seen the dirt, and we find today that we have 5½ million unemployed; 7.6 million families earning less than \$2,000 and, mind you, 21 million throughout our land not protected by the Federal minimum wage law.

President John Kennedy said in his message to the Congress on February 7 that our Nation can ill afford to tolerate the growth of an underprivileged and underpaid class, and substandard pay leads necessarily to substandard living conditions, hardship, and distress.

Mr. Chairman, this bill is sound from an economic point of view. This bill will give purchasing power to those who need it, those who desperately need it to buy the necessities of life. This bill will equalize the competitive conditions throughout the States and, remember this, this bill will eliminate the subsidies to those organizations in the States that do not have minimum wage laws.

I notice that the minority Members in the minority report to the committee bill made a statement in opposition to the bill. They said on page 63 that the States have made substantial progress in this field as indicated by the fact that at the present time 33 States, Puerto Rico, and the District of Columbia have some type of minimum wage law.

What does that mean? It means that we have 16 States in these United States, without a minimum wage law; we have no protection for the working people of the United States because the States have not acted, and they are not covered by Federal minimum wage laws. Yes; you have five States with provisions for minimum wage boards, yet these five States have never acted and have never covered the workers in those States.

Yes we have the great State of Arkansas with a minimum wage law for skilled labor at 16 cents an hour, with the braceros coming in from Mexico and working at 50 cents an hour, which some people consider to be a high wage for imported labor.

I was very pleased to see that North Carolina, the State of one of the authors of the Kitchin-Ayres bill, in January 1960, finally, after so many years, passed a minimum wage law of 75 cents an hour with extensive exemptions throughout the State of North Carolina.

I am happy to see that the State of Ohio, the State of the gentleman from Ohio [Mr. AYRES], has a minimum wage law of 75 cents an hour with many exemptions in that particular State. I have in the past demonstrated my interest not only for the laboring man in the city but also for the farmer. I was a member of the New York State Legislature and a member of the joint commission on labor and industrial conditions. While a State senator I introduced a bill which became law for a \$1 minimum wage in the State of New York, because the people required that assistance in order to pay for the necessities of life.

I say to those people in States which do not have these minimum wage laws that they are paying more money in relief, through aid to dependent children, and old-age assistance because there is no minimum wage law. You are not giving these working people the money that comes from the profits gained from their labor. You would rather permit them to be supported by the Federal Government through some Federal program of relief—perhaps old-age assistance or aid to dependent children than raising their minimum wage.

Take the State of Alabama. They spent \$5 million plus on Federal assistance, and they have no minimum wage law. There are the States of Florida, Georgia, Indiana, Delaware, Iowa, Maryland, Michigan, Mississippi, and Missouri, from which comes the gentleman from Missouri [Mr. CURTIS], with no minimum wage law. And yet we have almost \$20 million that is spent there for aid to dependent children.

Nebraska has no minimum wage law, and one of the Members said they spent \$2½ million for aid to dependent children.

We have South Carolina and Tennessee and Texas and Virginia. Yes, I would like to refer to Texas. I was down there recently speaking in Dallas, Tex., in the district represented by Mr. BRUCE ALGER who opposes the wage bills. There is no minimum wage law in the State of Texas and over \$100 million are paid in welfare benefits to old-age people and over \$18 million there for aid to dependent children. I set forth herein a table, a list of States without statutory wage laws and what their residents receive in welfare assistance:

Fiscal 1959

	Old-age assistance	Aid to dependent children
States without minimum wage laws:		
Alabama.....	\$37,372,000	\$5,906,000
Florida.....	29,888,000	15,537,000
Georgia.....	42,004,000	13,530,000
Indiana.....	13,525,000	10,276,000
Delaware.....	626,000	1,359,000
Iowa.....	19,618,000	8,458,000
Maryland.....	4,411,000	8,142,000
Michigan.....	33,107,000	24,204,000
Mississippi.....	23,851,000	7,565,000
Missouri.....	56,182,000	20,343,000
Nebraska.....	8,121,000	2,560,000
South Carolina.....	12,438,000	5,549,000
Tennessee.....	22,679,000	15,097,000
Texas.....	100,120,000	18,463,000
Virginia.....	5,750,000	7,452,000

Fiscal 1959—Continued

	Old-age assistance	Aid to dependent children
States with low minimum wage:		
Arkansas (16 cents).....	\$23,791,000	\$4,661,000
Kentucky (40 cents).....	20,729,000	13,795,000
5 States which have statutory minimum wage laws creating wage boards which have never acted:		
Illinois.....	43,880,000	38,808,000
Louisiana.....	69,611,000	21,835,000
Kansas.....	16,461,000	5,889,000
Maine.....	5,788,000	4,421,000
Oklahoma.....	51,075,000	15,962,000
North Carolina passed a minimum wage bill in 1960.		

Why can you not support a minimum wage law which will give the underprivileged the opportunity to earn sufficient to purchase those things which will permit them to raise their children in dignity?

You come here and say, this bill violates the interstate commerce provision and that minimum wages must be regulated by the States. And yet 40 percent of the States have not acted. I say to you that the States which have not acted have put a stain, a dark stain upon their State escutcheon, a badge of unconcern. You must protect the workers, because once you give them the purchasing power you will make the wheels of business go round, you will stimulate the business by increasing the workers' purchasing power. Without that purchasing power we may have to take care of the underpaid workers' children through these relief programs.

This legislation is for the benefit of this country, it is for the benefit of the working people and their families. The people of my district by a poll have indicated that they want extended coverage. Seventy-five percent of my constituents have indicated they favor an increase in minimum wage to \$1.25 per hour and extended coverage for new groups at \$1 per hour. We should go forward with a minimum wage law in other areas such as hotel, motel, and restaurant workers. Perhaps there are some constitutional objections—and I do not press the point. But I say this legislation is a must for the people of America. You must support the Albert bill in order to protect the people of America. I urge its passage.

Mr. DOMINICK. Mr. Chairman, will the gentleman yield?

Mr. SANTANGELO. I yield to the gentleman from Colorado.

Mr. DOMINICK. The gentleman said you need the bill we are now considering because the States do not have minimum wages, and where they do not have minimum wages, this is where we have to raise unemployment compensation, aid to dependent children, and other things. Then the gentleman said that New York State under his leadership put a minimum wage law on the books. Is it not true that New York State, under the recent Unemployment Act that we have just passed, gets the largest amount of unemployment compensation of any State in the country, and out of the

hides of other States, some of which have no minimum wage coverage?

Mr. SANTANGELO. We have the largest population. We do not have any residence requirement laws. The people come in to earn a living and we cannot let them starve. We lose our industries to those States which pirate them from us because of the cheap wages, and we lose industry. It goes to Mississippi and South Carolina and other States who have no minimum wage laws. We have taken care of our own indigent. We pay 20 percent of the Federal taxes of this country, and we support our own burden.

Mr. KEARNS. Mr. Chairman, I have no further requests for time.

Mr. ROOSEVELT. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, in concluding this debate, may I first express to my colleagues, and I think we all have it in mind, our deepest appreciation of the high level on which this debate has been carried on. There are deep disagreements on this issue, but I think the House can congratulate itself on a well-ordered but most serious and most intense discussion of the issue.

I think it would be well to point out at this time that the Democratic Party since 1938 has undertaken the primary responsibility for forwarding the basic issues of minimum wage legislation, that it has made advances in the legislation in the most temperate and responsible manner, and that we are now faced with the opportunity under the leadership of the President and the leadership of this House in discussing and presenting a bill which will be a most moderate increase and extension of the Fair Labor Standards Act. I can only say truthfully that I believe as we begin discussion of such substitutes or amendments as may be offered it would be fair to point out that all of these substitutes are by nature those which have had to be made in a relatively short time but that they are basically founded on the committee bill.

I trust and believe that those on this side of the aisle will have the opportunity to be joined by those on the other side of the aisle who recognize the inequities which I believe will be brought out under the debate under the 5-minute rule in the Kitchin-Ayres bill, and at the same time will recognize that the decisions which have been reached by the leadership in presenting their bill, by Mr. ALBERT, with the changes that we have made on this side, against perhaps the better judgment of some of the members of the committee, represent a sincere effort to meet those sincerely and deeply held views of those Members on our side who are troubled by some of the interstate commerce concepts involved and some of the coverage concepts involved, and that we have made concessions in order to try to bring together the clearest picture that can be established of a moderate and yet effective measure.

Mr. HALLECK. Mr. Chairman, will the gentleman yield?

Mr. ROOSEVELT. I yield to the gentleman from Indiana.

Mr. HALLECK. I thank the gentleman for his statement, which I think probably clarifies the existing situation. Do I understand correctly from what he has just said that the committee has now abandoned the bill reported by the committee, and that the controversy has now shifted to that between the bill introduced late yesterday evening by the gentleman from Oklahoma [Mr. ALBERT] and the so-called Ayres-Kitchin substitute?

Mr. ROOSEVELT. I believe the gentleman has asked whether we have abandoned the committee bill. The committee never abandons a bill. It discusses it before the Committee of the Whole, and then it makes the necessary adjustments. In this instance I believe you will find that the majority of the committee most certainly will be in support of the gentleman from Oklahoma [Mr. ALBERT] when he presents his substitute.

Mr. HALLECK. I think that is a very fair statement. Will the gentleman permit me to say just one further word?

Mr. ROOSEVELT. I yield to the gentleman from Indiana.

Mr. HALLECK. Of course, perhaps, the word "abandoned" is not quite too right word and maybe it is a little too harsh, but in the final analysis if those on the committee and on the majority side who are in charge of this legislation now propose to support the Albert substitute, as introduced late yesterday evening, instead of the committee bill, then language, as we speak it out in Indiana, seems to me to indicate that the committee bill has been abandoned.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. ROOSEVELT. I yield to the majority leader, the gentleman from Massachusetts.

Mr. McCORMACK. Of course, the statement of the gentleman from Indiana does not convey the correct situation, and what they might say in his part of Indiana might not be said in some other part of Indiana. The fact remains that the first test will come between the two substitutes. The effort is being made by the committee recognizing the honest differences of opinion that exist among Members who support minimum wage legislation. Therefore, the Albert substitute bill is offered in the Committee of the Whole. That in no sense means an abandonment. That is simply a matter of recognizing the honest views of those who support a minimum wage. So far as I am concerned, I respect those who are opposed to any minimum wage. They are honest in their views. But, to those who favor a further extension of minimum wage legislation and favor an increase in the amount and also an extension of the coverage, I think the Albert substitute represents a point of view that both those who believe the legislation should go farther and those who believe the committee bill goes too far can agree upon and support the substitute and have it adopted, and then, if adopted, it becomes the bill, as passed by the House of Representatives.

Mr. ROOSEVELT. Mr. Chairman, I certainly thank the distinguished ma-

jority leader for his very clear description of the situation.

Mr. Chairman, in conclusion because the position of the administration has been brought into question, may I read the statement of the Secretary of Labor on the pending minimum wage bill. It reads as follows:

Yesterday at his news conference, President Kennedy called for passage of a minimum wage bill "as close as possible" to the one proposed by the administration and reported by the House Education and Labor Committee. It is the judgment of the House leadership that the realistic way of achieving this objective is for the House to pass the substitute bill that has been introduced by Mr. ALBERT, of Oklahoma.

The President has every confidence in the House leadership and in their legislative judgment.

The administration, therefore, joins with the leadership in urging that Mr. ALBERT's substitute be adopted by the House.

Mr. JOHNSON of Maryland. Mr. Chairman, will the gentleman yield?

Mr. ROOSEVELT. I yield to the gentleman from Maryland.

Mr. JOHNSON of Maryland. Mr. Chairman, in analyzing the several bills proposed to amend the Fair Labor Standards Act, I am gratified that the bill introduced by the distinguished Member from Oklahoma [Mr. ALBERT] returns canning and processing exemptions to the present law from the 12 to 12 modification of the committee bill. This is extremely important to my district, and I am sure to many districts throughout our Nation.

The committee bill would reduce from 28 to 24 the number of weeks during which the fruit and vegetable processing and canning industry is exempt. I failed to find any reasons reached for this proposed change, nor have I heard any reasonable explanation for proposing to cut back the exemptions for the fruit and vegetable processing and canning industry but not for other related agricultural industries.

Congress in 1938 recognized that the assumptions upon which overtime was based were not applicable to industries that could not control the hours of the day or months of the year when the raw product would become available for processing. The processing industries are typically located in rural areas where all available labor is employed during the harvesting and processing season.

In recognition of these facts, Congress established exemptions from the overtime requirements of the act applicable to processing industries; one, providing a 14-week overtime exemption up to 12 hours a day or up to 56 hours a week for employees employed in an industry found by the Administrator to be of a seasonal nature. The canning of perishable or seasonal fresh fruits and vegetables has been determined to be in industry of a seasonal nature; two, provided in section 7(c) in the second part for a 14-week overtime exemption for employees employed in first processing of canned fruits and vegetables, handling, slaughtering or dressing poultry or livestock, first processing in the area of production of certain other agricultural commodities.

In many areas of the country, canners and processors who pack several fruits and vegetables need the full 28 weeks of exemption presently granted in the act. If they are obliged to pay penalty overtime for 4 of these weeks, many canners and processors may be forced to reduce their purchases of raw products and cut back the number of operating hours, thereby adversely affecting growers and canning plant employees.

I know that every processor and canner in my district and throughout the Nation expresses their appreciation to those who understand their problem in this vital matter.

Mr. ROOSEVELT. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as the original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Labor Standards Amendments of 1961".

Mr. AYRES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. AYRES: Strike out all after the enacting clauses and insert the following: "That this Act may be cited as the 'Fair Labor Standards Amendments of 1961.'"

"DEFINITIONS"

"SEC. 2. (a) Paragraph (f) of section 3 of the Fair Labor Standards Act of 1938 is amended by inserting after 'Agricultural Marketing Act, as amended,' the following: 'the processing of shade-grown tobacco for use as cigar wrapper tobacco by agricultural employees employed in the growing and harvesting of such tobacco, which processing shall include, but shall not be limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and bailing, prior to the stemming process,'"

"(b) Paragraph (m) of section 3 of such Act, defining the term 'wage', is amended by inserting before the period at the end thereof a colon and the following: 'Provided, That the cost of board, lodging or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide individual contract or collective bargaining agreement applicable to the particular employee'."

"(c) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs:

"(p) 'Secretary' means the Secretary of Labor.

"(q) 'Enterprise' means the related activities performed (either through unified operation or common control) by any person or persons for a common retail business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That within the meaning of this subsection, a local retail establishment which is under independent ownership and control shall not be deemed to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not limited to, an agreement (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such local

establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

"(r) 'Enterprise engaged in commerce or in the production of goods for commerce' means any enterprise which has five or more retail establishments and which operates such establishment in two or more States.

"(s) 'Retail establishment' shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods is not for resale and is recognized as retail sales in the particular industry, but shall not include an establishment which is primarily a service establishment such as (but not limited to) hotels, motels, restaurants (including lunch counters, cafeterias, and drive-ins), caterers, hospitals, laundry or drycleaning establishments, motion picture theaters, amusement or recreational establishments, parking lots, beauty or barber shops, and repair shops."

"INVESTIGATIONS OF EFFECTS OF FOREIGN COMPETITION ON EMPLOYMENT"

"SEC. 3. Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter and shall make a full and complete report of his findings and determinations to the President and to the Congress."

"SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS"

"SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting after the words 'production of goods for commerce' wherever they appear, the following: 'or employed by a retail establishment of an enterprise engaged in commerce or in the production of goods for commerce.'

"MINIMUM WAGES"

"SEC. 5. (a) (1) Section 6(a) of such Act is amended by inserting after the word 'who' in the portion thereof preceding paragraph (1), the words 'in any workweek'.

"(2) Paragraph (1) of section 6(a) of such Act is amended to read as follows:

"(1) not less than \$1.15 an hour, except as otherwise provided in this section;".

"(3) The first sentence of paragraph (3) of section 6(a) of such Act is amended to read as follows:

"(3) if such employee is employed in American Samoa, in lieu of the rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time."

"(b) Subsection (b) of section 6 of such Act is amended to read as follows:

"(b) Every employer shall pay to each of his employees who in any workweek (i) is employed by a retail establishment of an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(r), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the

amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at the rate of not less than \$1 an hour."

"(c) Subsection (c) of section 6 of such Act is amended by changing the period at the end thereof to a colon, and adding the following: 'Provided further, That the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates, in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1961.'

"MAXIMUM HOURS"

"SEC. 6. Subsection (a) of section 7 of such Act is amended by inserting after the word 'who' the words 'in any workweek'.

"WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS"

"SEC. 7. (a) Section 8 of such Act is amended by inserting after 'section 6(a)' wherever such words appear the following: 'or in section 6(b), whichever may be applicable'.

"(b) Subsection (a) of section 8 of such Act is further amended by inserting after the word 'industries' where it appears in the first sentence the words 'or retail establishments of enterprises'; and by inserting after the words 'production of goods for commerce' where they appear in the second sentence the following: 'or by any retail establishment of an enterprise engaged in commerce or in the production of goods for commerce.'

"CHILD LABOR PROVISIONS"

"SEC. 8. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: 'or in any retail establishment of an enterprise engaged in commerce or in the production of goods for commerce.'

"EXEMPTIONS"

"SEC. 9. (a) Clause (1) of section 13(a) of such Act is amended to read as follows: '(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or'.

"(b) Clause (2) of section 13(a) of such Act is amended to read as follows: '(2) any employee employed by any retail or service establishment (except a retail establishment in an enterprise engaged in commerce or in the production of goods for commerce), more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located. A retail or service establishment shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is

recognized as retail sales or services in the particular industry; or'.

"(c) Clause (13) of section 13(a) of such Act is amended to read as follows: '(13) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or'.

"(d) Section 13(a) of such Act is amended by changing the period at the end thereof to a semicolon and adding the following: 'or (16) any employee employed by a retail establishment who is employed in connection with a lunch counter, restaurant, or cafeteria in such establishment; or (17) any employee of a retail gasoline establishment; or (18) any employee of an establishment which is primarily engaged in the business of selling automobiles, trucks, or farm implements.'

"(e) Section 13(b) of such Act is amended by changing the period at the end thereof to a semicolon and adding the following: 'or (6) any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located in a city or town of one hundred thousand population or less, according to the latest available decennial census figures as compiled by the United States Bureau of Census, except where such city or town is part of a standard metropolitan area as defined and designated by the Bureau of Census, which has a total population in excess of one hundred thousand; or (7) any employee employed by a retail establishment of an enterprise engaged in commerce or in the production of goods for commerce whose minimum rate of wages is governed by section 6(b) of this Act; or (8) any employee employed in a bona fide local retailing capacity (as such term is defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act).'

"EMPLOYMENT OF STUDENTS"

"SEC. 10. Clause (1) of section 14 of such Act is amended by striking out 'and' after 'apprentices,' and by inserting after 'messages', the following: 'and of full-time students outside of their school hours,'.

"STUDY TO SIMPLIFY AND REMOVE INEQUITIES IN AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS"

"SEC. 11. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(b)(3), 7(c), and 12(a)(10), and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data, and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

"EFFECTIVE DATE"

"SEC. 12. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act."

Mr. AYRES. Mr. Chairman, the committee amendment as just heard is almost identical with the Kitchin amendment which passed this House last year. The only major change is that under the amendment we have just heard read all of the enterprises in a chain doing less than \$250,000 annual gross business are exempt. The increase is to \$1.15 per hour for those employees who are currently covered. The newly covered employees will be those who are employed by the employer operating 5 or more establishments in 2 or more States. Those employees will receive a minimum wage of \$1 per hour with no provision for overtime. It is estimated that the newly covered would number approximately 1.4 million. The reason I feel that the committee should adopt this amendment is that it is the only thing that can prevent the Federal Government from eventually covering every enterprise under the Fair Labor Standards Act in the United States.

The testimony we heard before the committee on the so-called dollar volume test was that \$1 million is entirely too high. Mr. Suffridge, president of the Retail Clerks Union, testified that the starting point should be \$500,000. Secretary Hodges testified that in his judgment it could happen that eventually there would not be any dollar test at all; every enterprise would be covered.

Secretary Goldberg has just issued a statement in which he says that the President hoped to achieve the administration's objective in an extension of coverage to 4.3 million workers through Senate action and a Senate-House compromise.

Mr. Chairman, if the committee does not accept the Kitchin-Ayers approach insofar as the interstate concept is concerned, in my judgment the House and the Senate conferees will agree on a dollar volume less than \$1 million that the House passes, because in my judgment the other body will pass the \$500,000 figure. So, we go to conference with nothing to discuss except lowering it from \$1 million to some figure between \$1 million and \$500,000. I do not think that the Congress of the United States, at least the House of Representatives, wants to give the Federal Government the right to determine minimum wages over those enterprises that are strictly intrastate.

Mr. Chairman, I hope the committee will adopt the amendment that has been offered. Two hundred and eleven Members of this House voted for an almost identical bill a year ago when the gentleman from North Carolina [Mr. KITCHIN] offered the amendment.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(Mr. AYRES asked and was given permission to proceed for 2 additional minutes.)

Mr. KITCHIN. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from North Carolina.

Mr. KITCHIN. Would the gentleman agree with me that those who supported the bill last year were supporting the bill under worse economic circumstances

by far than we are asking support for the measure this year?

Mr. AYRES. That is absolutely right. Last year, according to the Department of Labor, there were less than 4 million unemployed. This year I believe the current figure is 5½ million.

Mr. KITCHIN. As a matter of fact, does not the gentleman agree with me, according to the statement by the Department of Labor, that we have the highest unemployment at this particular time than we have had for the past 20 years?

Mr. AYRES. That is exactly correct.

Mr. KITCHIN. I will ask the gentleman if, under the Kitchin-Ayers concept at this time, it is not a better bill by far, including the exemptions that have been added, than was voted on the floor of this House last year.

Mr. AYRES. It is a much better bill, in my judgment, I will say to the gentleman from North Carolina. It is a more equitable bill, because after working with this thing for over a year you learn how to perfect it and protect the employees and employers alike.

Mr. KITCHIN. I thank the gentleman.

Mr. ALBERT. Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Ohio [Mr. AYRES].

The Clerk read as follows:

Amendment offered by Mr. ALBERT of Oklahoma as a substitute for the amendment offered by Mr. AYRES of Ohio.

Strike out all after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "Fair Labor Standards Amendments of 1961".

DEFINITIONS

SEC. 2. (a) Paragraph (f) of section 3 of the Fair Labor Standards Act of 1938 is amended by inserting after "Agricultural Marketing Act, as amended)," the following: "the processing of shade-grown tobacco for use as cigar wrapper tobacco by agricultural employees employed in the growing and harvesting of such tobacco, which processing shall include, but shall not be limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling, prior to the stemming process."

(b) Paragraph (m) of section 3 of such Act, defining the term "wage", is amended by inserting before the period at the end thereof a colon and the following: "Provided, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further*, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee."

(c) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs:

"(p) 'American vessel' includes any vessel which is documented or numbered under the laws of the United States.

"(q) 'Secretary' means the Secretary of Labor.

"(r) 'Enterprise' means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That, within the meaning of this subsection, a local retail or service establishment which is under independent ownership and control shall not be deemed to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not limited to, an agreement (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such local establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

"(s) 'Enterprise engaged in commerce or in the production of goods for commerce' means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person, if not less than 25 per centum of the annual gross volume of its sales of goods (exclusive of excise taxes at the retail level which are separately stated) is of goods which were produced outside the State where the sales occurred; and if not less than 25 per centum of the goods, materials, and supplies which are annually used or worked on, in providing its services, were produced outside the State where the services were performed."

"(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

"(2) any such enterprise which has one or more establishments engaged in laundering, cleaning, or repairing clothing or fabrics if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

"(3) any such enterprise which is engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

"(4) any establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;

"(5) any such enterprise which is engaged in the business of construction or reconstruction, or both, if the annual gross volume from the business of such enterprise is not less than \$350,000;

"(6) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000, exclusive of excise taxes at the retail level which are separately stated;

Provided, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce, or a part of an enterprise engaged in commerce or in the production of

goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner."

INVESTIGATIONS OF EFFECTS ON EMPLOYMENT OF FOREIGN COMPETITION

SEC. 3. Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in fact resulted, or is in fact likely to result, from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress."

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting after the words "production of goods for commerce" wherever they appear, the following: "or employed in any enterprise engaged in commerce or in the production of goods for commerce."

MINIMUM WAGES

SEC. 5. (a) (1) Section 6(a) of such Act is amended by inserting after the word "who" in the portion thereof preceding paragraph (1), the words "in any workweek".

(2) Paragraph (1) of section 6(a) of such Act is amended to read as follows:

"(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section."

(3) The first sentence of paragraph (3) of section 6(a) of such Act is amended to read as follows:

"(3) If such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time."

(b) Subsection (b) of section 6 of such Act is amended to read as follows:

"(b) Every employer shall pay to each of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1), (2), (3), or (5) or by an establishment described in section 3(s) (4) or (6), and who, expect for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at a rate not less than \$1 an hour.

"(2) if such employee is employed as a seaman on an American vessel, wages at not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1)

of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement)."

(c) Subsection (c) of section 6 of such Act is amended to read as follows:

"(c) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5: *Provided*, That (1) the following rates shall apply to any such employee to whom the rate or rates prescribed by subsection (a) would otherwise apply:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, increased by 15 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1961 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Beginning two years after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 10 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

"(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1961 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

"(D) In the event a wage order has not been issued pursuant to the recommenda-

tion of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or surties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

"(2) In the case of any such employee to whom subsection (b) would otherwise apply, the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates, in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1961.

"(3) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee."

MAXIMUM HOURS

SEC. 6. (a) Subsection (a) of section 7 of such Act is amended by designating such subsection as subsection (a) (1), by inserting after the word "who" the words "in any workweek".

(b) Section 7 of such Act is amended by adding at the end thereof the following new subsection:

"(h) No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period

(not less than one month) represents commissions on goods or services."

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 7. Subsection (a) of section 8 of such Act is amended by inserting after the word "industries" where it appears in the first sentence the words "or enterprise"; and by inserting after the words "production of goods for commerce" where they appear in the second sentence the following: "or in any enterprise engaged in commerce or in the production of goods for commerce".

LIMITATIONS ON REPORTS REQUIREMENTS

SEC. 8. Section 11(c) of such Act is amended by adding at the end thereof the following new sentence: "If an employer has filed with the Secretary a written assurance (in such form as the Secretary shall prescribe) that he is complying with the provisions of this Act, the Secretary shall not require such employer to make any other written report to him pursuant to this subsection unless he has reason to believe, on the basis of complaints made to him or on the basis of other information he considers reliable, that such employer has violated or is violating this Act."

CHILD LABOR PROVISIONS

SEC. 9. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "or in any enterprise engaged in commerce or in the production of goods for commerce."

EXEMPTIONS

SEC. 10. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

"(a) The provisions of sections 6 and 7 shall not apply with respect to—

"(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

"(2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, if such establishment—

"(i) is not in an enterprise described in section 3(s)(1), or

"(ii) is in such an enterprise and is a hotel, motel, restaurant, hospital, or school for physically or mentally handicapped, or gifted, children, or

"(iii) has an annual dollar volume of sales (exclusive of excise taxes at the retail level which are separately stated) which is less than \$250,000.

A 'retail or service establishment' shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

"(3) any employee employed by any establishment (except an establishment in an enterprise described in section 3(s)(2)) engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment's annual

dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, commercial, or communications business: *Provided further*, That neither the exemption in this paragraph nor in paragraph (2) shall apply to any employee of a hotel, motel, or restaurant who is engaged in laundering, cleaning, or repairing clothing or fabrics where such services are not performed exclusively for such hotel, motel, or restaurant: *Provided further*, That this exemption shall not apply to any employee of any such establishment which has an annual dollar volume of sales of such services of \$250,000 or more and which is engaged in substantial competition in the same metropolitan area with an establishment less than 50 per centum of whose annual dollar volume of sales of such services is made within the State in which it is located; or

"(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or

"(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or

"(6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

"(7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or

"(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand and the major part of which circulation is within the county where printed and published or counties contiguous thereto; or

"(9) any employee employed by a motion picture theater; or

"(10) any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or

"(11) any switchboard operator employed by an independently owned public telephone company which has not more than seven hundred and fifty stations; or

"(12) any employee of an employer engaged in the business of operating taxicabs; or

"(13) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection

with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

"(14) any employee employed as a seaman on a vessel other than an American vessel; or

"(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve; or

"(16) any employee of an establishment primarily engaged in the preparation or offering of food for human consumption who is employed in connection with the preparation or offering of food or beverages for human consumption by such services as catering, banquet, box lunch, or canteen or counter service, to the public, to employees, or to members or guests of members of clubs; or

"(17) any employee employed in an amusement or recreational establishment that operates on a seasonal basis; or

"(18) any employee employed by a retail or service establishment which is primarily engaged in the business of selling automobiles, trucks, or farm implements.

"(b) The provisions of section 7 shall not apply with respect to—

"(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

"(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

"(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

"(4) any employee employed in the canning, processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any by-product thereof; or

"(5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

"(6) any employee employed as a seaman; or

"(7) any employee of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, not included in other exemptions contained in this section; or

"(8) any employee of a gasoline service station; or

"(9) any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located in a city or town of fifty thousand population or less, according to the latest available decennial census figures as compiled by the United States Bureau of Census, except where such city or town is part of a standard metropolitan area as defined and designated by the Bureau of Census, which has a total population in excess of one hundred thousand; or

"(10) any employee of an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if (A) the annual gross volume of sales of such enterprise is not more than \$1,000,000 exclusive of excise taxes, and (B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is lo-

cated, and (C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale; or

"(11) any employee whose minimum rate of wages is governed by section 6(b) of this Act."

EMPLOYMENT OF STUDENTS

SEC. 11. Clause (1) of section 14 of such Act is amended by striking out "and" after "apprentices," and by inserting after "messages," the following: "and of full-time students outside of their school hours in any retail or service establishment: *Provided*, That such employment is not of the type ordinarily given to a full-time employee."

PENALTIES AND INJUNCTION PROCEEDINGS

SEC. 12. (a) Section 16(b) of such Act is amended by adding at the end thereof a new sentence as follows: "The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection."

(b) Section 17 of such Act is amended to read as follows:

"INJUNCTION PROCEEDINGS

"SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15(a) (2) the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947)."

STUDY OF AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS

SEC. 13. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(c), 13(a) (10) and 7(b) (3), and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

EFFECTIVE DATE

SEC. 14. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act.

The CHAIRMAN. The gentleman from Oklahoma [Mr. ALBERT] is recognized.

Mr. KITCHIN. Mr. Chairman, there has been a long change in this amend-

ment, as I understand it, on page 4, particularly beginning at line 5, through line 11, and I ask unanimous consent that the Clerk read that language again.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk reread the language referred to.

(Mr. ALBERT (at the request of Mr. FRELINGHUYSEN) was given permission to proceed for 5 additional minutes.)

(Mr. ALBERT asked and was given permission to revise and extend his remarks.)

Mr. ALBERT. Mr. Chairman, the amendment which I have offered is a substitute, as I think everyone knows, for the Ayres substitute. The provisions of the amendment are identical with those of H.R. 5900 which I introduced yesterday and which is shown on page 4405 of yesterday's RECORD, with one exception, which the gentleman from North Carolina [Mr. KITCHIN] pointed out in his unanimous-consent request and which has been reread. This one exception grew out of the colloquy between the gentleman from North Carolina and the gentleman from California [Mr. ROOSEVELT] with respect to the meaning of the so-called "depend on commerce" clause found on page 4, and by a change in the substitute on page 4, line 5, we have undertaken to make it very clear that 25 percent of the gross volume of sales are of goods produced outside the State where sold and that with respect to services 25 percent of the goods, materials, and supplies used in providing such services were produced outside the State where the services were performed. The substitute, therefore, would cover only such enterprises making sales of \$1 million per year and only where it met the 25-percent test and only where it has employees engaged in handling, selling, or working on goods moved in commerce. I repeat, Mr. Chairman, that this was worked out after we had consulted with the gentleman from North Carolina and after the colloquy between him and the gentleman from California.

Mr. Chairman, it is with reluctance that I offer a bill in view of the tremendous amount of work which the committee has done on this proposal. Members of this great committee on both sides of the aisle have put a lot of hard effort into this job. Everyone knows that the distinguished gentleman from California [Mr. ROOSEVELT] is the author of the basic proposal contained in the Albert substitute. The proposal which I have offered, however, does contain also substantial and important amendments.

Mr. Chairman, with respect to employees covered by existing law this substitute leaves the provisions of the committee bill unchanged. The minimum wage for such employees for the first 2 years would be \$1.15 an hour. After 2 years the minimum wage would be \$1.25 an hour. Presently covered employees would be entitled to time and one-half for overtime after 40 hours as in existing law.

With respect to newly covered employees, the substitute contains amendments both to the committee bill and to the Ayres substitute. First of all, newly covered employees will not be subject to the escalation clause. The minimum wage will be \$1 an hour and remain at that figure. No newly covered employees will be subject to the overtime provisions of the law.

The bill also contains the Fulbright amendment. It eliminates the objections raised by small chains to the discriminatory "5 and 2" provision contained in the Kitchen-Ayres substitute. While my amendment covers retail and service enterprises having gross sales of over \$1 million a year if 25 percent of the goods and services are in interstate commerce, the Fulbright amendment then removes from coverage any establishment when such a \$1 million enterprise itself has gross sales of less than \$250,000. These annual dollar volume standards are \$350,000 in the case of construction enterprises.

I would like now to make a statement with respect to the differences between this bill and the committee bill.

First, the Albert bill would change the definition of enterprises engaged in commerce or in the production of goods for commerce contained in the committee bill so that the specified enterprises meeting the various dollar volume tests, including gasoline service establishments would be covered for minimum wage purposes if (a) not less than 25 percent, and so forth; and if (b) the enterprise has employees—not just one—engaged in commerce or in the production of goods for commerce. The committee bill does not contain a like percentage test for interstate commerce activities of the enterprise.

Second, it extends coverage to employees in any gasoline service establishment having gross annual sales of \$250,000 or more. Committee bill extends coverage to employees in enterprises having gross annual business of \$1 million or more. However, committee bill would exempt any retail gasoline service establishment in an enterprise having not more than 15 establishments, if such establishment has an annual sales volume of less than \$1 million.

Third, the Albert bill would provide a minimum wage of \$1 for newly covered employees, effective 120 days after enactment. Committee bill would advance this rate to \$1.05 1 year from the effective date, to \$1.15 2 years from such date, and to \$1.25 3 years from the effective date.

Fourth, it would not require the payment of overtime compensation to newly covered employees. Committee bill would not require payment of overtime to such employees during first year after effective date. However, overtime compensation at 1½ times employees regular rate of pay would be required for most newly covered employees after 44 hours during second year, 42 hours during third year and 40 hours thereafter.

Fifth, it would not change the present act's overtime exemption with respect to seasonal industries and the first processing, and so forth, of certain agricul-

tural and horticultural commodities. Under the committee bill the 14-week seasonal industry exemption under which overtime payment is not required except for work in excess of 12 hours a day or 56 a week would continue. It would also provide a 14 workweek exemption—with same hours of work limitation as referred to above—for the first processing, canning, or packing of perishable or seasonal fresh fruits or vegetables and for the first processing in the area of production of any agricultural or horticultural commodity during seasonal operations. If an employer qualifies for both exemptions he would be eligible for an aggregate of 24 weeks in any calendar year of which not more than 12 weeks may be of unlimited hours and 12 weeks of limited hours.

Sixth, the bill preserves the existing minimum wage and overtime exemption under the act for employees of hotels, motels, restaurants, and hospitals, as does the committee bill, and, in addition, exempts from the new coverage employees of schools for physically or mentally handicapped, or gifted children.

Seventh, it would provide a minimum wage and overtime exemption under the act for employees of any retail or service establishment in an enterprise having a gross annual business of \$1 million or more, if the establishment has an annual volume of sales of less than \$250,000. Committee bill would exempt employees of retail or service establishments in such an enterprise, if the enterprise has not more than 14 such establishments and the establishment has an annual volume of sales of less than \$250,000, or, in the case of a retail gasoline service establishment, \$1 million.

Eighth, it would exempt from the act's minimum wage and overtime provisions any employee of a retail or service establishment which is primarily engaged in the business of selling automobiles, trucks, or farm implements. Under the committee bill, employees of such establishments would be exempted from the act's overtime requirements only, and office employees of such establishments would not be entitled to this exemption.

Ninth, this bill would provide an overtime exemption for employees of certain independently owned and controlled local enterprises engaged in the wholesale or bulk distribution of petroleum products. Such an enterprise will qualify for the exemption if its gross annual volume of sales is less than \$1 million, more than 75 percent of its sales are made within the State in which the enterprise is located, and not more than 25 percent of its annual sales are to customers engaged in the bulk distribution of such products for resale. The committee bill would provide a similar exemption but limit its application to delivery employees of establishments having annual sales of less than \$1 million. Under the committee bill, there is no limitation as to interstate sales. However, the exemption would be defeated if more than 10 percent of the establishments' annual sales are to customers engaged in using such products in operations, other than agriculture, in which goods are produced for commerce. The

Albert bill does not contain such limitation.

Tenth, the Albert bill would not contain a provision similar to that of the committee bill which adds an overtime exemption for certain drivers or drivers' helpers making local deliveries pursuant to a collectively bargained agreement which provides pay for such employment on the basis of trip rates or other delivery payment plan.

Mr. FORD. Mr. Chairman, will the gentleman yield?

Mr. ALBERT. I yield to the gentleman from Michigan.

Mr. FORD. Mr. Chairman, I am not clear about this percentage criteria. May I ask, if a business qualified under this formula last year but does not this year, how is it going to be handled administratively? Once a business is under the 25 percent percentage figure, is that in perpetuity or just what is the criterion?

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield to me to answer?

Mr. ALBERT. I yield to the gentleman from California.

Mr. ROOSEVELT. I think perhaps I can answer the gentleman's question by referring to the testimony before the committee, in which that specific question was asked not only as to this point but as to other points; for instance, if a business had less than a million dollars in a certain period and then more than a million dollars, at what point would the Department consider it either covered or not?

He stated that that minimum would be based on the last quarter concerned.

Mr. FORD. The last 3 months?

Mr. ROOSEVELT. That is correct.

Mr. FORD. The last 3 months before the violation, or the last 3 months of the year?

Mr. ROOSEVELT. It would be revised every quarter.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

(By unanimous consent (at the request of Mr. VINSON), Mr. ALBERT was permitted to proceed for 5 additional minutes.)

Mr. ALBERT. I think the gentleman from California has answered the question. This provision would be subject to the same provisions for determining coverage as affect other provisions of the bill.

Mr. FORD. Has this particular point been discussed on the floor? Can we have some legislative history so it will be clear cut? We do not want any wide-open authority to be given to the executive branch of the Government.

Mr. ROOSEVELT. The Department has made it clear it will continue to operate under this bill, as it has since 1938, and apply the same procedures.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. ALBERT. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. In view of the question about the legislative history of this proposal, may I ask just how we developed this particular bill? According to the press, there were two members of the House Committee on Edu-

cation and Labor involved in the development of this legislation. I wonder if the gentleman from Oklahoma can indicate whether or not that is correct, and if so, who else did participate in the development of the bill.

Mr. ALBERT. I will yield to the gentleman from Illinois.

Mr. PUCINSKI. In answer to the question of the gentleman from Michigan, I would like to refer to the testimony of Secretary Goldberg on page 50 of the transcript.

Mr. FRELINGHUYSEN. This is not answering my question.

Mr. ALBERT. I am taking the responsibility on my own, after having consulted with members of the Committee on Labor and the Labor Department and the leadership, for this bill.

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ALBERT. I yield.

Mr. ROGERS of Colorado. Reference is made in the gentleman's statement to the fact that it would cover filling stations which have an operation in interstate commerce, so to speak. As the gentleman knows, in many of the oil-producing States, and mine is one, they have production within the State, refining within the State, and the sale within the State. If that is true, would the filling station and the oil jobbers that have retail sales be covered by this act, or would they be exempt?

Mr. ALBERT. I will answer the gentleman by saying that if 25 percent of the goods under the language of the bill were produced outside the State and were sold it would be within the provisions of the act, otherwise it would not be.

Mr. ROGERS of Colorado. But if it was all produced within the State, refined within the State, and sold within the State, then it would not be under it?

Mr. ALBERT. That is correct, if the establishment sold nothing but petroleum products.

Mr. ROGERS of Colorado. If on the other had we have pipelines bringing oil from an outside State into a State and it is refined within the State and then distributed to the filling stations, they would be under the act?

Mr. ALBERT. I think that is a fair statement.

Mr. ROGERS of Colorado. So then we have one group under the act and another group not under the act; is not that right?

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. ALBERT. I yield to the gentleman from Arkansas.

Mr. HARRIS. Does the gentleman have any information as to what percentage of the total sales of service stations would be in the nature of let us say tires and various appliances, supplies and so forth, other than the gasoline itself?

Mr. ALBERT. I do not, but I yield to the gentleman from California [Mr. ROOSEVELT] to reply to the gentleman.

Mr. ROOSEVELT. On that point, the testimony will show that approximately 35 percent of the revenue of the

average gasoline station comes from what is known as TTA.

Mr. HARRIS. Then that means that practically all of the service stations throughout the United States will come under the provisions of the bill?

Mr. ROOSEVELT. No, because the bill specifically requires that stations do at least \$250,000 annually in addition to the 25 percent test.

Mr. HARRIS. Yes, I recognize that that is true.

Mr. WHITENER. Mr. Chairman, will the gentleman yield?

Mr. ALBERT. I yield to the gentleman from North Carolina.

Mr. WHITENER. The gentleman has referred to retail establishments and to dollar volume. In my part of the country, there are certain department stores which operate certain departments within the store under a lease arrangement.

The CHAIRMAN. The time of the gentleman from Oklahoma has again expired.

(By unanimous consent (at the request of Mr. WHITENER) Mr. ALBERT was granted permission to proceed for 5 additional minutes.)

Mr. WHITENER. I was pointing out, Mr. Chairman, that in some of these large department stores, certain departments are operated by lease arrangements with an entirely different concern. For instance, a department store may have a jewelry department which is leased out to a corporation from some other part of the country. Now in computing the dollar volume of business of the retail establishment, as the Secretary would do, is it contemplated in this legislation that the dollar volume of any separate concern operating within the walls of a retail department store or in that retail establishment would be used as the basis for figuring?

Mr. ALBERT. The bill uses the terms "enterprises" and "establishments". Enterprise applies to the total operation and establishment applies to the specific, individual shop, store or what have you.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. ALBERT. I yield to the gentleman from California.

Mr. ROOSEVELT. I would also point out on page 3 of the bill, and incidentally, this also appears in the Kitchin-Ayres bill, you will find on line 20 that amongst those who are exempted, there is this provision:

That it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

That definitely takes care of the situation that the gentleman is inquiring about.

Mr. WHITENER. In other words then, it is correct that the leased operation, so to speak, would be a separate retail establishment, separate and apart from the store in which it is located?

Mr. ALBERT. There is no question about that.

Mr. KITCHIN. Mr. Chairman, will the gentleman yield?

Mr. ALBERT. I yield to the gentleman from North Carolina.

Mr. KITCHIN. I wonder if the gentleman from Oklahoma would answer this question for me. We have been talking of, and I think the gentleman made a very good point with reference to the oil production in the State distributed to fuel stations within the State. I think the gentleman has answered this question correctly. The second section of this new language, however, says—"if not less than 25 percent of the goods, materials and supplies which are annually used or worked on in providing its services were produced outside the State where the service is performed." Will the gentleman answer this question? Is it not reasonable to assume that any filling station, even though the oil was produced in the State of Colorado and was transported to the filling station in Colorado—but there we have again a percentage of the equipment, the pump and the tanks and so forth that are used in connection with dispensing the service—would you say, therefore, that that would come under the bill?

Mr. ALBERT. I would call that "sale of goods" and the criterion would be whether the goods were produced outside of the State where it is sold.

Mr. KITCHIN. Then what does this section providing that not less than 25 percent of the goods, materials and supplies and so forth mean?

Mr. ALBERT. It applies to service enterprises and establishments. Then the service at the filling station, such as changing automobile tires, switching batteries, charging batteries, making use of tools to repair automobiles, the pumps to pump out the gasoline; do those things incidental to performing this service come under this last clause?

I would say that was such an incidental part of the business of retail selling that it would not be a part of the business or enterprise.

Mr. KITCHIN. If the gentleman would yield further, I would say it is not an incidental part of the legislation we are trying to pass here today, and I am endeavoring to get an explanation, if I can, from someone, of this last section: "Or 25 percent of the goods, gasoline, supplies," what that means. Can the gentleman explain that?

Mr. ALBERT. I will say to the gentleman that I think it is intended to relate to those establishments which perform a service type enterprise as distinguished from retail stores and sales enterprises.

Mr. KITCHIN. Will the gentleman yield further?

Mr. ALBERT. It is conjunctive. We have tried to write this language in a manner to cover the questions raised by the gentleman with respect to the words "depend on," and we have divided it into two parts: First, with respect to the goods; and, second, with respect to services.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. HALLECK. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Indiana is recognized.

Mr. HALLECK. Mr. Chairman, during the entire consideration of this very important measure I am quite sure everyone has performed as a person of good will. There certainly has been no recrimination, no harsh words, and I would say probably a considerable degree of careful consideration without extreme partisanship. As far as I am concerned I want the debate to continue that way.

We now have before us the committee bill as reported by the committee and upon which most of the debate proceeded; a substitute offered by the gentleman from Ohio [Mr. AYRES], which substitute has been thoroughly debated and considered; and now we have a brand-new substitute which was introduced late yesterday evening, copies of it available only this morning, a substitute already changed in what I understand to be very material respects from the bill which was introduced yesterday evening.

Mr. POWELL. Mr. Chairman, will the gentleman yield?

Mr. HALLECK. I yield.

Mr. POWELL. The date of the Ayres bill is March 22. The date of the Albert bill is March 23.

Mr. HALLECK. I had expected to touch on that in a couple of minutes. Let me say to the gentleman that the Kitchin-Ayres bill was acted upon in the House of Representatives last summer and carried here in the House of Representatives. It was thoroughly debated at that time, and except for a few minor changes that everyone can understand, it is the same proposition we had here last year, and there is nothing new or novel about it.

If ever I was convinced that the Ayres substitute should be adopted I am convinced of it now after the discussion I have just heard about this new substitute. Some of us believed yesterday before we got the new bill that the whole matter ought to be recommitted to the committee for further consideration and to report out a measure that the committee really wanted us to adopt.

Now, the committee has apparently abandoned that bill, and, as I say, we have a brandnew bill. I would be for recommitting this bill right now were it not for the fact that we do have before us the Ayres substitute which has been thoroughly considered and adopted once by the House of Representatives. If it was good last year, then I say it is just as good this year.

Obviously, this whole field is controversial. I was here when the first bill was enacted, and it was controversial then. The increase in 1955 under President Eisenhower was controversial, but we brought that change about, and, as I say, last year we have an increase in the minimum wage and extension of coverage. May I say, before I go any further, that after the Kitchin substitute was adopted in the committee I voted for it. It provided for a 15-cent

increase and an extension of coverage in the interstate commerce concept. It was not my fault it did not become law last summer. I wish now that it had become law at that time, but it did not.

Last year when we considered the matter there was grave concern about the economic consequences. There is that same concern today. Let me address myself to a few of the people who may for one reason or another have some objection to the Ayres substitute.

First of all, there are some who feel they ought to vote for a 25-cent-an-hour increase right now. May I just say with all respect to the committee and everybody concerned that the increase as of now to 25 cents has been abandoned. This is a 15-cent-increase bill. Reference has been made to the effective date of the 25 cents as coming in 2 years. As I read the substitute offered by the gentleman from Oklahoma the 25-cent increase would become effective 4 months and 2 years from the date this should become law, if it does become law.

So I say to you people who feel that you ought to have 25 cents right now, vote for the 15 cents, then we will be back—I hope some of us will be back—in the next Congress. Every Congress likes to raise the minimum wage. So let us leave that for the next Congress. I do not know what the economic situation might be in the country. It might be such as to not dictate such an increase.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent (at the request of Mr. HALLECK), he was allowed to proceed for 5 additional minutes.)

Mr. HALLECK. Mr. Chairman, on the other hand it might be well that the Congress would determine that an increase above the 10 additional cents an hour should be had in the next Congress. So I believe it would be the better part of wisdom to leave to the next Congress that final determination, because, may I say again, the bill presently before us will give to the people presently employed and covered under the act an increase of 15 cents, which will apply for the next 2 years and 4 months after the law becomes effective.

There are some here who think it is a mistake to have any minimum wage bill at all, or any fair labor standards bill; there are some here who think that we should not increase the minimum now or extend the coverage. To those who feel that way, I say that in all my career here I have felt it my duty if I thought something was bad to improve it as best I could in the consideration of it on the floor of the House. If I thought a proposal offered as an amendment or a substitute would improve what I otherwise thought was bad legislation, I have supported it. I know once in a while we might be tempted to keep something just as bad as possible, according to our likes, or the likes of the people we represent, in order to vote against it, but I do not believe that is good statesmanship.

So, may I say to those who believe that nothing should be done here in this

direction, you ought to support the Ayres substitute because, in my opinion, it is a well-thought-out, well-conceived, desirable piece of legislation which represents a real advance not only in the amount involved but in the coverage.

Now, to those people who think nothing should be done, it is their privilege to register their approval or disapproval of whatever finally comes on for a vote, but certainly I do not believe that position should be taken now.

This really is a peculiar situation that confronts us; the committee having reported a bill that I thought was substantially agreed upon; a substitute having been prepared, not prepared just in the last few days but a substitute carefully thought out and prepared a long time ago. All of the debate has proceeded on the Kitchin-Ayres substitute as against the committee bill. Well, as far as I am concerned, let it stay there.

Now, the vote will come first of all, of course, on the Albert substitute as against the Ayres substitute. I think that we ought to go right back where we started; turn down the Albert substitute, adopt the Ayres substitute presently before us, and then when we go back in the House we will have the vote between the Ayres substitute and the committee bill.

At I say, the 15-cent increase was apparently determined upon not just by me but by the top people in our present administration, who apparently now agree with the contention of the last administration, that the circumstances in the country at this time would only justify a 15-cent increase, and that is provided here.

Now, it has been argued so much that I do not like to belabor the point, but the Ayres substitute does cling to the principle of interstate commerce, and I, for one, want to have it stay right there. I do not want to bring every statehouse, every county courthouse and every city hall to Washington, and I think it is high time that we began to pay some attention not only to the responsibilities but the rights of the States in these various matters. If the people in the States should, through their legislatures, want a minimum wage for intrastate commerce, let them have it, that is their right, but let us not try to write it from Washington.

Now, as to this substitute that has been offered by the gentleman from Oklahoma—and, incidentally, as I said yesterday, there is no person in this body from whom I have a higher respect. He has complete integrity. He said he offers this bill on his full responsibility. Well, that is good enough for me. But, of course, we understand now that apparently it has not only his blessing but the blessing of the administration, the blessing of the majority leadership, and, I assume, of the members of the committee, but it presents here new and novel provisions that I do not think should be adopted.

Mr. Chairman, let us stick with something that has been tried and proved.

Mr. VINSON. Mr. Chairman, I offer an amendment to the Albert substitute.

The clerk read as follows:

Amendment offered by Mr. VINSON to the substitute offered by Mr. ALBERT:

On page 4, strike out lines 17 through 22 and renumber the following paragraphs accordingly.

Page 17, beginning in line 1, strike out "except an establishment in an enterprise described in section 3(s)2."

Page 17, line 9, strike out "commercial."

Page 17, beginning with the quotation marks "provided further".

In line 16, strike out everything down through "located" in line 23.

Mr. ALBERT. Mr. Chairman, will the gentleman yield?

Mr. VINSON. Gladly.

Mr. ALBERT. Mr. Chairman, personally I would be delighted to endorse and to accept the amendment that the gentleman has offered.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. VINSON. I yield to the gentleman from California.

Mr. ROOSEVELT. Mr. Chairman, I, likewise, am glad to accept the amendment.

Mr. VINSON. I thank these two distinguished gentlemen. Let me say merely that this amendment takes out of the bill the provisions with respect to laundries.

Mr. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. VINSON. I yield to the gentleman.

Mr. BOGGS. This is a blanket exemption; it takes out all classes of laundries?

Mr. VINSON. Exactly; under the Federal law today laundry establishments are not included. The Albert substitute includes them. My amendment takes all of them out from the different sections of the bill.

Mr. BOGGS. Including such places as linen supply?

Mr. VINSON. That is correct.

Mr. BROOKS of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. VINSON. I yield to the gentleman.

Mr. BROOKS of Louisiana. The gentleman's amendment on page 17 relates also to laundries; does it not?

Mr. VINSON. It relates to laundries wherever laundries are referred to. We are washing laundries clean out of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. VINSON].

The amendment was agreed to.

Mr. GOODELL. Mr. Chairman, I move to strike out the last word.

Mr. KITCHIN. Mr. Chairman, will the gentleman yield to me?

Mr. GOODELL. I yield to the gentleman.

Mr. KITCHIN. Mr. Chairman, I would like to clarify a position that I have taken here. I do not mean to be argumentative about this matter at all. The gentleman from Oklahoma [Mr. ALBERT] knows that I made an effort to assist in clearing up language in the Albert bill, as referred to in this particular section that we have been talking about. I am frankly of the opinion, Mr. Chairman, that instead of clearing up that

particular section, we have done it a grave disservice, which I deeply regret. I am afraid that somewhere along this line we may accidentally, if this bill becomes a section in the statute, make it a little bit more ambiguous than even the phrase "depend upon."

Mr. GOODELL. I thank the gentleman and I agree with him. I think with this language here, although it is well intentioned, that we just hop from the frying pan into the fire. I would like to ask the gentleman from Oklahoma [Mr. ALBERT] with reference to this language which he has now substituted on page 4, the commerce language, this question. You have here in the second clause the words "25 percent of the goods, materials and supplies which are annually used or worked on in providing those services," come from out of the State.

As an example, take a shoestore which got most of its shoes from out of the State, 25 percent or more. That is covered regardless of its size, except for this dollar volume test. Now, how about a shoe repair store? You have here, goods worked on. Are you going to have the wage and hour people go in and find out where these shoes were made that the shoe repairman works on?

Mr. ALBERT. No.

Mr. GOODELL. That is the language you have here, I think.

Mr. ALBERT. I do not think so.

Mr. GOODELL. "Goods, materials, and supplies which are annually used or worked on in providing the services," I quote.

Mr. ALBERT. With respect to service establishments this clearly has no reference to goods that are worked on for customers. Such goods could not have any possible bearing upon the subject. I will say to the gentleman that that is part of the legislative history; there is not any question about that.

Mr. GOODELL. I am glad to have the gentleman's clarification, but the words in your bill are "used or worked on." Do I take it you are going to go into a shoe repair store that is covered and, if the dollar volume is brought down, find out about the hammers and nails, where they were made, and so on? These are the things the shoe repairman works with.

Mr. ALBERT. In all fairness, I believe that this is reaching the point of the ridiculous. Does the gentleman know of any shoe repair store where there is a volume of business that would justify bringing it under the provisions of this bill, a million-dollar annual shoe repair business?

Mr. GOODELL. Let me say to the gentleman I have no faith in the dollar-volume exemption because it is made clear by the advocates that they will reduce this down to include everybody, as quickly as they can. This language which you have depending on the original interstate commerce clause in the original Albert bill is probably making it worse. I thoroughly deplore writing this kind of language. I frankly wonder, to get down to the most ridiculous, if you would go to a veterinarian and find out where the dogs and cats are produced that he is going to work on. It is about that bad, I think.

Mr. O'HARA of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield.

Mr. O'HARA of Michigan. I am privileged to serve with the gentleman from New York on that committee. The gentleman from New York is too good a lawyer to defend seriously some of the arguments he has made here. He knows that for over 50 years the Supreme Court has been refining its decisions as to what constitutes commerce. These are well-defined legal principles which we have been dealing with for many years. They will apply in this act as well as in any other.

Mr. GOODELL. May I say to the gentleman we are not talking about what the Supreme Court has defined the commerce clause to be, we are talking about the way you are applying the commerce power to this legislation. We are writing new legislation in here over essentially local enterprises, I am afraid. You have given a pragmatic \$1 million limit admittedly so you can say that all these little shoestores and others are presently out, but the intention of the advocates is clear, they are going to move that \$1 million limit down. That, takes us back to what you have put in here about what is commerce. You have said "all materials and supplies used or worked on." I think it will get to a ridiculous stage.

Mr. O'HARA of Michigan. We use the word "commerce," and they have to be goods moved in commerce, but that term has been defined over the years by the courts. It is no different than any other use of the word "commerce." It is the same as in the Labor Relations Act or in other of our many statutes which are based on the power of the commerce clause.

Mr. GOODELL. These words "that are worked on" are brand new. You just put them in here to try to get something different than what you had before. If we have this kind of a bill, it will be thrown out in the conference and you will be back to the dollar-volume sales, because it will be so ridiculous that when you get to conference they cannot accept such language. You are merely bypassing this House so they can come back here with a dollar-volume sales test for us.

Mr. POWELL. Mr. Chairman, I wonder if we can get unanimous consent that all debate on this amendment and the substitute cease at 5 o'clock?

The CHAIRMAN. Is this on the Ayres amendment and all amendments thereto?

Mr. POWELL. That is correct, Mr. Chairman.

The CHAIRMAN. Is there objection?

Mr. FRELINGHUYSEN. Mr. Chairman, I object.

Mr. POWELL. Mr. Chairman, I ask unanimous consent that all debate on the Ayres amendment, and all amendments thereto close at 5:15 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. JONAS. Mr. Chairman, reserving the right to object, how much time would that give those of us who are not members of the committee and who have

not had an opportunity to participate in this debate?

The CHAIRMAN. The time would be divided equally among those who indicate their desire to speak.

Mr. JONAS. Yes, Mr. Chairman, but how much time would that give to each Member?

The CHAIRMAN. It depends on how many indicate a desire to be heard.

Mr. JONAS. Mr. Chairman, the Members who desire to be heard are standing.

The CHAIRMAN. The time to be allotted to each Member would be roughly 2½ minutes.

Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey [Mr. FRELINGHUYSEN].

(Mr. FRELINGHUYSEN asked and was given permission to revise and extend his remarks.)

Mr. FRELINGHUYSEN. Mr. Chairman, I said yesterday I thought the way this substitute had been presented to the House made a travesty of the legislative process. I still feel it was a tardy unveiling, and even now little has been unveiled. This is a poor way to legislate, and even more earnestly as the result of today's developments. In 7 hours of debate on this bill we received only a few reluctant answers to some specific questions with reference to the Albert amendment which is now before us. We should have had a detailed explanation, including full discussion of the differences between the Albert and the Roosevelt bills.

We are entitled also to know who specifically developed this legislation. There is an article in today's newspaper giving the names of the participants in the meeting which developed this proposal. Included were two members of the Education and Labor Committee and some members of the administration including the Secretary of Labor. I think we are entitled, at least, to that information.

Furthermore, we are entitled to know more about the differences between this bill and the committee bill. This has been very sketchily presented just now. We need also to know the reasons why these differences have been incorporated in this amendment. For instance, why has the definition of "enterprises" been changed? Why is there no escalation clause with respect to newly covered employees? Why are seasonal workers treated differently under this Albert proposal?

In conclusion, Why is it necessary for us to bypass the regular process of discussion in an effort to come up with an agreed compromise? This discussion should, of course, take place in the appropriate committee. Since this was not done, we should at least have thoroughly discussed the Albert bill during the debate just completed. What has taken place here on the floor today is proof positive that we have no real alternative but to accept the Ayres substitute. The majority leadership and indeed Secretary of Labor Goldberg himself, have in effect repudiated the Roosevelt bill.

I certainly hope we pass the Ayres substitute.

The CHAIRMAN. The Chair recognizes the gentleman from Florida [Mr. HERLONG].

Mr. HERLONG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HERLONG, of Florida, to the amendment offered by Mr. AYRES, of Ohio:

Page 2, line 5, strike out the period and add the following: "and in the case of fruits and vegetables includes (1) transportation and preparation for transportation, whether or not performed by the farmer, of the commodity from the farm to a place of first processing or first marketing within the same State, (2) transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of the commodity.

Mr. PUCINSKI. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. PUCINSKI. Mr. Chairman, I make a point of order against this amendment on the ground that it is not germane and would like to be heard on my point of order.

Mr. O'HARA of Michigan. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from Michigan.

Mr. O'HARA of Michigan. Mr. Chairman, if the Chair is prepared to hear the gentleman from Illinois, the gentleman has yielded to me and I would like to state part of the gentleman's objection.

The amendment offered by the gentleman from Florida attempts to amend not the act before us, but Public Law 78, under which migrant labor is brought into the country, and the other act of Congress under which the U.S. Employment Service is established.

An exemption already exists under the Fair Labor Standards Act, exempting agricultural labor from the application of the Fair Labor Standards Act, and this is an attempt to amend not the Fair Labor Standards Act, but other acts passed by various Congresses.

The CHAIRMAN (Mr. WALTER in the chair.) The Chair is ready to rule.

This is unquestionably an amendment to the Fair Labor Standards Act. It specifically refers to the Fair Labor Standards Act.

The Chair overrules the point of order. The gentleman from Florida is recognized.

Mr. HERLONG. Mr. Chairman, I hesitate to take the time of the Committee at this late hour to present an amendment which may seem to some of you relatively insignificant. This amendment was to have been offered by the gentleman from Texas [Mr. KILCORE], but he is ill today and of course could not be here. Believe me this amendment is of great importance to all of us in the fruit and vegetable areas of the United States.

Mr. Chairman, the definition of "agriculture" in the Fair Labor Standards Act of 1938 includes, among other things, "harvesting of any agricultural or horti-

cultural commodities." This definition has now been interpreted by the Wage-Hour Division of the U.S. Department of Labor not to include the transportation of agricultural commodities from the farm to the place of canning, packing, or processing, and further, to not include the transportation of the harvest crew to the harvest site unless such transportation in either case is performed by the farmer or an employee of the farmer. The amendment would insure that the transportation of the harvest crew to and from the farm and the transportation of the just-harvested commodities to the first place of packing or processing within the same State would be included within the agricultural exemption. Such transportation was assumed to be exempt since they were an integral part of agriculture and particularly harvesting, until interpretations by the U.S. Department of Labor held otherwise.

The legislative history of the original bill shows clearly that the handling or hauling of fruit or vegetables in their raw or natural state were exempt and this is to clarify what is felt is an erroneous construction of the original act and amendments.

(By unanimous consent Mr. Gross yielded his time to Mr. GOODELL.)

Mr. GOODELL. Mr. Chairman, I rise in opposition to this amendment.

We have included, actually, in all of the bills that are before us a provision for a report from the Secretary of Labor next year on the seasonal exemptions that are in the present Fair Labor Standards Act. This is a very complicated act, and I am afraid that any amendment adopted on the floor will be injurious. I am fearful of the effect such amendments might have on the entire act as the situation now stands.

We will have a report next year from the Secretary of Labor advising us as to what he recommends can be done in the seasonal field. Members of the committee on both sides of the aisle recognize there are inequities here but we should not adopt any amendment offered on the floor of this nature when it is so complicated.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from California.

Mr. ROOSEVELT. Mr. Chairman, I want to agree with the statement the gentleman has made. He has stated the situation well. I hope all Members realize there is in the Albert bill, as well as in the committee bill, a particular provision for a study of this complicated matter, and that we will get in this report the whole problem next year.

Mr. GOODELL. I trust the gentleman from California inadvertently omitted saying that it is in the Kitchin-Ayres bill also.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. HERLONG].

The question was taken; and on a division (demanded by Mr. HERLONG) there were; ayes 105, noes 109.

Mr. HERLONG. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. HERLONG and Mr. KITCHIN.

The committee again divided and the tellers reported that there were—yeas 161, nays 133.

So the amendment was agreed to.

Mr. VANIK. Mr. Chairman, I want to take this opportunity to urge this committee to report out a minimum wage of \$1.25 per hour with the broadest kind of coverage.

My district is principally an area of workers, a great many of whom would be affected by this legislation because we have many industries that are paying less than this minimum wage. So we are as vitally affected as any other section of the country.

If the 75 cents per hour minimum wage was determined as reasonable by Congress in 1949, certainly \$1.25 per hour is a reasonable minimum wage today. The rising cost of living demands this increase in the minimum. This is more than a question of economics, it is a question of morality. It is a question of morality that each and every Member of this body must face.

We must avoid damage to America by sectionalism. It is tragic to see one part of America competing with another when the competition between regions in America is not in the quality of the product—but in the differential that may exist in labor costs. It is competition at the expense of the living standards of workers and it thereby becomes unfair. Production regions in America should compete on the availability of resources, utility services, skills and markets, but never on the basis of cheap-labor forces. This kind of labor competition could sap the strength of the country.

An effective minimum wage law provides the best curb against the interstate flight of industry from established industrial centers to the cheap low-wage areas of this country. This law provides the best form of insurance against the reckless "pirating" of industry which would otherwise prevail, setting State against State, community against community and eventually divide the Nation against itself.

Mr. WHARTON. Mr. Chairman, we have listened patiently during several hours of debate on the so-called minimum wage bill. This title obviously is a misnomer, and if the Federal Trade Commission were to pass on a label of this nature, I suspect that they would have something to say about misrepresentation and fraud. The primary purpose of this legislation is to extend coverage beyond the accepted bounds of interstate commerce and invade the jurisdiction of the individual States. Every Member on the floor today recognizes this proposal as a "foot-in-the-door" and "camel's-nose-under-the-tent" to regulate and increase all wages. In some quarters any bill of this nature will be blamed for another round of inflation, although I regard it as the effect of inflation rather than its cause. Inflation emanates from the top and not the bottom of the totem pole. I wish that all of our Members might have had some

experience as a small businessman, as I have had; and it would also be helpful if they had been employed by a large corporation and belonged to a labor union. I am told that certain labor contracts, especially in the textile field, are based upon the minimum wage that this body provides for interstate commerce; and while I question the wisdom of that, the fact remains that this type of legislation is becoming more or less an institution with us.

I have accordingly assured my labor constituents that I would extend due consideration to minimum wage laws under interstate commerce, and the present bill may well represent the major labor legislation for the present session of Congress. I am receptive to any proposal to keep that minimum wage in line with the cost of living; that means an increase at this time, and I do not think there is much question about the future of inflation under the present administration.

Now as to this proposal for a new and distorted concept of interstate commerce, I think the authors of the present legislation are trying to downgrade the intelligence of our membership. The establishment of a new definition of interstate commerce is important and ought not to be included in a minimum wage bill as a collateral matter. Personally, I feel that there are some things that can well be left to the judicial branch of our Government; and while they have already gone far afield in their definition of this particular question, I think it would be well to bear with them a while longer. Under the amendments which are to be offered here today, I intend to support a minimum wage increase for interstate commerce only, consistent with the increased cost of living; but if an extensive coverage is included which invades the field already covered by our State laws, then the proponents of the present legislation will have defeated a minimum wage proposal.

Mr. HOLTZMAN. Mr. Chairman, during the course of this debate on the minimum wage bill, I would like to take this opportunity of indicating my support of H.R. 3935, the bill which has been reported by the House Committee on Education and Labor. I had previously introduced similar legislation, and had voted for the measure which was brought to the House floor last year. Unfortunately the bill died in conference.

I am hopeful that we will be able to enact a satisfactory bill this year—one which will raise the minimum wage to \$1.25 per hour eventually, and extend the coverage. The last time the minimum wage was raised was in 1955—6 years ago—when Congress raised the minimum to \$1 per hour, with no extension of coverage. We have a labor force in this country of over 70 million, and of those less than one-third are protected and covered by the Fair Labor Standards Act. The wage-hour law was first put into effect in 1938, and since that time, although we have been successful in raising the minimum wage, we have not met with success in our efforts to extend coverage to the remainder of the labor force.

President Eisenhower had previously asked for a limited expansion of coverage, and in his last state of the Union message this year had again asked for expanded coverage and a "moderate adjustment" of the minimum wage. President Kennedy in his message to the Congress on February 2 pointed out that the labor force was rising by 1.5 percent each year, and advocated an increase in the minimum wage to \$1.15 per hour, with an increase to \$1.25 within 2 years. He proposed new coverage for several million workers in the retail trades and services, and H.R. 3935 brings these provisions to the House floor for consideration.

At the present time, with lingering unemployment, and with the continued upward spiral of living costs, the recommendations contained in H.R. 3935 are certainly not extreme. There is no doubt about the fact that the minimum wage, despite the increase of 1955, has failed to keep up with the cost of living. Unemployment figures for the past several years have been tragic, and have been showing a steady increase, the seasonally adjusted rate standing at 6.8 percent in February of this year. Unemployment increased by 300,000 in February, to 5.7 million.

The proposed increase and expansion of coverage would put a more realistic floor beneath current wage levels and would improve the standards of living, the morale and the productivity of many of our workers; and at the same time would prevent the exploitation of many of our substandard, seasonal low-wage workers.

The enactment of this bill would provide a much-needed incentive, and would stimulate the national economy and growth.

Mr. RHODES of Pennsylvania. Mr. Chairman, it seems that whenever minimum wage legislation comes up for consideration, its opponents claim that it will intensify whatever economic problem the Nation faces at the time. Last year there was much concern about inflation, and it was asserted that any improvements in the Fair Labor Standards Act would lead to higher prices and an inflationary spiral. The fact that the increase in the minimum wage to \$1 did not result in increases in prices of the products of low wage industries was conveniently overlooked.

This year, since our major economic problem is unemployment, it is not at all surprising that opponents of H.R. 3935 assert that any increase in the minimum or expansion of the act's coverage would result in more unemployment. Again, the facts are conveniently overlooked.

When the minimum rate was raised to \$1, there was no decrease in the level of employment and no increase in the amount of unemployment. Even in the South, where the impact of the minimum was greatest, unemployment did not rise, as is shown by studies made by the Department of Labor. These studies also show that in low wage communities employment increased rather than decreased. I emphasize, in these communities employment rose during the period of adjustment to the minimum

wage. It is true that in some individual plants a few workers were laid off, as happens year in and year out whether or not the minimum rate is changed. But in these communities business generally improved, stimulated no doubt by the added purchasing power brought about by the \$1 minimum rate.

The minimum wage increase which is now proposed would have a smaller impact than the increase to \$1, and there is no reason whatsoever for expecting that its enactment will add to unemployment. On the contrary, this and other measures proposed by President Kennedy will stimulate the economy and aid in economic recovery.

Mr. PHILBIN. Mr. Chairman, I hope and urge that the House will adopt a fair, vital, forward-looking minimum wage bill.

While it is true that the present parliamentary situation is somewhat confused, there is still ample time and opportunity for the House as a whole to find the right kind of a solution that will mark another forward step in the long, painful struggle for social justice, and that will ensure fair, decent treatment for many low-standard workers throughout the Nation.

The committee has labored long and diligently on this important bill, and it is entitled to great credit for its valuable work. In view of the various proposals now pending before the House, it will be necessary for us to try to agree upon some measure that will reflect the best possible results for all those who will be affected by this legislation.

The amendment in the form of a substitute which has been presented by the distinguished gentleman from Oklahoma [Mr. ALBERT] would seem to be very ably prepared, comprehensive measure which carries out sound progressive ideas regarding hourly rates, and also provides reasonable coverage while preserving those exemptions which the House has traditionally favored.

I want to compliment the gentleman from Oklahoma for his fine work in so speedily and ably assembling and bringing forth this bill as a solution to the complex parliamentary situation facing us.

In this kind of legislation, it is difficult to satisfy all the various groups that will be affected by it. All the House can do is to work its will, and do its very best, to get a bill that will adequately carry out the objectives of social progress, social gain, and the welfare of working men and women. These desirable objectives when measured against our industrial needs and the general prosperity will bring decent, helpful results, not only for individuals and business but for the economy as well.

I have long favored and supported appropriate legislation in behalf of our working people, and I can clearly see that measures of this kind, if they are properly drafted with due concern for local and group needs, are capable of bringing inestimable benefit to the Nation.

To be sure, it is a most commendable objective to lift the standards of the less favored and the less fortunate among us, and if we can in some substantial degree, achieve this result with the pres-

ent measure, we may feel that our efforts have not been in vain, and that we have contributed something that will make the lot of the average worker easier, the prosperity of the country brighter and broader, and our future destiny as a great free enterprise society placed on firm foundations.

It will be a great satisfaction and privilege for me, indeed, to support a minimum wage bill that will provide fair labor standards for large segments of the American people.

Mr. DONOHUE. Mr. Chairman, the declared policy written into the original Fair Labor Standards Act is "to correct, and as rapidly as practicable, to eliminate labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers."

I doubt very much that there are any here who seriously dispute that policy; there are indeed many here who sincerely differ about the ways and means by which this accepted policy can be best extended at this time. Our challenge and duty today is, then, to exercise the fullest measure of study, patience, and tolerance in working together for legislative agreement on a bill to further project our basic policy of advancing the general welfare of workers in the present economy while conscientiously endeavoring to insure its impact upon all industries and individuals is as equitable as we can humanly make it. I hope our discussion here will proceed with mutual understanding and deference so that we can fulfill our duty.

In determining our action on this measure it seems to me primary consideration should be granted to such fundamental factors involved as the advanced living costs affecting the average American family in our modern economy, the essential need of placing more purchasing power in the hands of those who will surely spend it, thus accelerating recession recovery, and implementing the basic objective of moving our economy ahead to meet the Russian challenge, as the President recommends.

The authoritative statistics presented to us show that last year there were some seven and a half million families in this country who had incomes less than \$2,000 annually, this in the most prosperous country in the world. It has been expertly estimated that the average family needs a minimum of between \$4,000 and \$5,000 a year to live at the barest level of respectability.

Let us further realize it has been 6 years since the last minimum wage was approved by the Congress, and the Department of Labor has revealed that, with the advanced living costs in the intervening period, even raising the minimum wage immediately to \$1.25 would only provide a third of what is presently required to maintain a modest but adequate standard of living for the average worker.

These and other statistics recited here are, in my opinion, impressively convincing and should influence our decision in favor of improving the structure of our general wage system and the national economy.

It is our proud boast that the standards of ordinary family living under the American system are the best and highest in the world. We are engaged in a desperate struggle with Communist Russia for survival and the elements of that challenge more and more seriously involve the economic factor.

Under the dedicated and inspiring leadership of our great President, John F. Kennedy, let us prove that our proud boastings are a reality and let us move the economy of this country forward in keeping with our destiny of freedom, progress, and leader of the civilized world.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. PUCINSKI].

(Mr. PUCINSKI asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PUCINSKI. Mr. Chairman, it is unfortunate that the tactical situation in the House or fair labor standards legislation is such that in order to make progress many of us are compelled to support a substitute bill which does not provide the extent of coverage the committee originally proposed. It is also lamentable that the retail clerks of America will not receive the additional benefits they are entitled to if the other body fails to improve this legislation. I believe the RECORD should include at this point a telegram sent to the President by James A. Suffridge, international president, Retail Clerks Association:

President JOHN F. KENNEDY,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The officers and members of the Retail Clerks International Association vigorously protest the substitution of the Albert bill for the original administration minimum wage proposal.

The Albert bill freezes the minimum at \$1 per hour for newly covered employees; makes no provision for overtime and is otherwise grossly deficient. The Albert bill would write into Federal law an unprecedented, unfair and long-term discrimination against millions of retail workers in wage rates and overtime protection. In no respect does the Albert bill carry out the basic provisions of the original administration proposal, espoused by you as U.S. Senator and incorporated in the Democratic platform. We cannot believe that the action taken at the meeting attended by Secretary Goldberg and others, at which time the gross dilution of the administration bill was agreed to, could in any way meet your longstanding convictions on increased coverage.

The Retail Clerks International Association cannot possibly support the Albert bill, since the bill is basically discriminatory.

Your immediate personal intervention is vital and urgently requested. We urge you to take steps immediately to maintain your basic principles on increased coverage on behalf of the millions of retail employees and that these employees be treated not as second class employees, but that they be accorded the same basic treatment as presently covered workers.

Mr. Chairman, I ask unanimous consent that I may yield the balance of my time to the gentleman from Massachusetts [Mr. McCORMACK].

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. MASON. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Chair recognizes the gentleman from North Carolina [Mr. JONAS].

Mr. JONAS. Mr. Chairman, I take this time because I am concerned as a result of the colloquy between the gentleman from Michigan and the gentleman from California with reference to the determination of the Department of Labor with respect to when gross sales will be calculated. I understand from the gentleman from California that this determination will be made every 3 months or once a quarter; is that correct?

Mr. ROOSEVELT. The gentleman is correct.

Mr. JONAS. May I say, Mr. Chairman, that my concern is based upon this fact. You are going to require that employers determine each quarter what their gross sales have been, and then you are going to have four different wage rates per year per establishment covered by this bill. Employees will not know from quarter to quarter how much money they are making, nor will employers know from quarter to quarter what their labor costs will be or what price they will have to ask for their goods.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. JONAS] has expired. The Chair recognizes the gentleman from Illinois [Mr. SPRINGER].

Mr. SPRINGER. Mr. Chairman, I ask unanimous consent that I may yield my time to the gentleman from North Carolina [Mr. JONAS].

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois [Mr. SPRINGER]?

There was no objection.

Mr. JONAS. I ask the gentleman from California, is that not true? Will not that impose a heavy burden upon every employer covered by this act to make a new determination every 3 months of what his wage scales are to be; and will not that require him to change the cost of the product he makes and will not that result in complete confusion?

Mr. ROOSEVELT. The answer is no, because in the Albert bill there is the same requirement to file one statement that you are in compliance with the provisions of the act. And as long as you are in compliance you do not have to file the other statements to which the gentleman is referring.

Mr. JONAS. I know, but if I as an employer have gross sales on an annual basis of \$1 million, and if during 3 months of that time I do not have sales that equal that pro rata amount, I would be in a different situation for that quarter.

Mr. ROOSEVELT. That is as the law is today. The Labor Board for years has handled this problem.

Mr. JONAS. But the law today is not based upon a dollar volume of sales, so

the problem I cite cannot come up today.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. JONAS] has expired. The Chair recognizes the gentleman from California [Mr. SHELLEY].

Mr. McCORMACK. Mr. Chairman, will the gentleman from California [Mr. SHELLEY] yield to me?

Mr. SHELLEY. I am happy to yield to the gentleman from Massachusetts.

Mr. McCORMACK. Mr. Chairman, I am sorry that my friend, the gentleman from Illinois [Mr. MASON] objected a moment ago. He arrived on the floor of the House at the last minute, to vote in the last teller vote, which was all right. So he did not know what was going on prior to that. Nobody objected to others transferring their time. I make no further comment than that.

Mr. Chairman, I listened to the remarks of the distinguished gentleman from Indiana [Mr. HALLECK]. I think he made a very fair statement about the legislative situation. I thoroughly agree with him and the other Members who have talked about the high level of this debate. Certainly the debate on this very important, and I realize, very controversial bill has been on a very high level, which reflects great credit upon the Members of the House, sitting as we are in Committee of the Whole.

There are a few observations I want to make.

To all Members on both sides who believe in minimum wage legislation and a further increase and a further extension, I respectfully submit that the compromise offered by the gentleman from Oklahoma [Mr. ALBERT] should be supported. I agree with the observations made by the gentleman from Indiana [Mr. HALLECK] that those who oppose any minimum wage legislation should vote along the lines that he indicated, but on the other hand those who favor minimum wage legislation should vote for the Albert amendment without regard to what side of the aisle we sit on.

You and I all know that progress is made through reasonable compromise. The Albert amendment is a reasonable compromise. There are some here who feel that the committee bill did not go far enough. There are others who feel that it went too far. I submit that the Albert amendment represents a reasonable compromise for which those who support minimum wage legislation can vote, even if in some respects it goes further than some think it should go, and in other respects some feel it does not go far enough. So I urge that the amendment is reasonable, certainly, and I hope the substitute will be agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. HOSMER].

(Mr. HOSMER asked and was given permission to revise and extend his remarks.)

Mr. HOSMER. Mr. Chairman, I had a question for the gentleman from California [Mr. ROOSEVELT] with respect to a constitutional aspect. There will not be time to answer it, but I do want to pose the question.

In the gentleman's memorandum of constitutionality, he said that the \$1 mil-

lion test would be ample to insure that the enterprise would have sufficiently substantial impact on interstate commerce to be well within the scope of constitutionality. That I grant. I am disturbed about the fact that the Constitution and the legal system have always required that the laws apply equally and that equal protection of the laws be granted. Therefore, if you have one firm doing a million-dollar business, and another firm next door in the identical business that is just as much in interstate commerce but doing \$900,000 worth of sales, what happens to equal protection? Both as to the second firm and its employees?

The CHAIRMAN. The Chair recognizes the gentleman from South Carolina [Mr. HEMPHILL].

Mr. HEMPHILL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEMPHILL, of South Carolina, to the substitute offered by Mr. ALBERT, of Oklahoma: On page 16, line 17, strike out paragraph (iii) of paragraph (2) of section 10(a). Amend section 10(a) by adding a new paragraph:

"(iii) is situated outside of the boundaries of a standard metropolitan statistical area as now delineated and now defined by the Federal Committee on Standard Metropolitan Statistical Areas under the direction of the U.S. Bureau of the Budget."

(Mr. HEMPHILL asked and was given permission to revise and extend his remarks.)

Mr. HEMPHILL. Mr. Chairman, I take this time because on yesterday I discussed here the fact that the impact of this legislation on the rural areas of this country is something which has not been explored as far as I can determine. The standard metropolitan statistical area is an area usually in which a city has 50,000 or more, or two contiguous counties have 50,000 or more people. All I am trying to do is the same thing the Albert substitute has done on page 22 with reference to radio operators. I am saying instead of the 50,000, which may affect the rural or farm store operator, that we exempt the rural areas, take in the cities where the cost of living is higher and the wage scale is higher, and let those people outside the cities where the wage scale and the cost of living and the variety of operation are altogether different and altogether cheaper have a chance under this legislation.

Let this House vote on this. Then, if the rural areas are affected, and unemployment results, your vote for or against will determine your interest in the welfare of the people of the rural areas.

I am sympathetic to every small merchant. How he makes a living is a mystery, almost, for the small merchant works harder, and has more problems than any business or workingman I know. He must work long hours to make it.

His judgment must be good on what to buy and sell.

He has many taxes other do not have.

His operation varies as his demands, his opportunities, his locale, his custom differentiates.

He is not only our merchant, he is our friend, neighbor, and pillar of our

community. I salute his efforts, now and in the past. I intend to help him.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. DENT].

Mr. BARRETT. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Pennsylvania.

Mr. BARRETT. Mr. Chairman, I am very much in favor of H.R. 5900 which, if enacted into law, will amend the Fair Labor Standards Act of 1938, as amended, to provide additional coverage for millions of men and women primarily employed in our large retail and service industries. In addition, those people now covered by the law will become entitled within a three year period to a minimum of \$1.25 an hour.

As my record in the House over the past 4 years will show, I have consistently advocated a minimum hourly wage of \$1.50, which to my way of thinking is a just and fair figure; and is based on my knowledge of the average family's expenses and living conditions as they exist today and as far back as 4 years ago in our city of Philadelphia.

In the United States today there are approximately eight million men and women who are working for less than \$1 an hour—and this is not right. With today's sky-high prices, I do not know how many of our families exist when their take-home pay is from \$30 to \$40 a week. I personally know of families living in my district in south Philadelphia who are barely getting by on a weekly paycheck of \$35. This to me is not living—it is struggling to exist. These people do not have steaks, chops and chicken. They eat soups, potatoes and rice, drink powdered milk and use other substitutes for good wholesome food. Of course, where the man and wife both are working, home conditions are somewhat better—but leave a lot to be desired.

Why should big business continue to grow richer through the honest toils of its underpaid employees. Why should some clip coupons and reap dividends when the less fortunate worker has to fight to keep alive. It is not fair to the wage earner or right that his children must suffer.

Recently the AFL-CIO urged the Congress to expedite the President's 12-point economic program and in an effort to improve the program recommended a \$1.25 minimum wage at once, rather than in steps over a 3-year period. I wholeheartedly concur with this proposal because it would give our economy the shot in the arm it needs to spiral upward. It would immediately put extra money in the pockets of the wage earner. It would buy more and better food and, in general, would raise the living standards of our American workers.

Our present economy demands at least \$1.25 hourly minimum wage. Our workers are entitled to it. I stand with them and urge that H.R. 5900 be enacted into law.

(Mr. BARRETT asked and was given permission to revise and extend his remarks at this point.)

Mr. DENT. Mr. Chairman, I know this amendment and know exactly what it does and have given it a great deal of study because we had it before us in the subcommittee. One of the basic faults with this type of coverage is that it does not take into consideration the soundest of all economic values, and that is the ability to pay, because it takes into coverage all of the communities that are included in a statistical metropolitan area. Under the latest census reports, an entire county or an entire area of three or five or six counties may be considered a metropolitan area.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina [Mr. HEMPHILL] to the substitute amendment offered by the gentleman from Oklahoma [Mr. ALBERT].

The amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland [Mr. JOHNSON].

(Mr. JOHNSON of Maryland asked and was given permission to revise and extend his remarks.)

Mr. JOHNSON of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of Maryland to the substitute amendment offered by Mr. ALBERT: Page 18, strike lines 9 through 17 and insert in lieu thereof:

"(5) any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment or in propagating, processing (other than canning), marketing, freezing, curing, storing, or distributing the above products or byproducts thereof;"

Page 21, strike lines 19 through 23 and insert in lieu thereof:

"(4) any employee employed in the canning of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof;"

Mr. JOHNSON of Maryland. Mr. Chairman, H.R. 5900 proposes to amend the present fishery exemptions of the act by elimination of the exemption pertaining to all onshore operations. Generally, this would repeal the present exemption of such operations as packing, propagating, processing, marketing, freezing, curing, storing, and distribution of fish, shellfish, seafood and their byproducts.

When the Fair Labor Standards Act has been under consideration and in respect to all marine legislation generally, Congress has been alertly aware of the uniqueness of the fishing industry and has exercised extreme caution in dealing with it.

No understanding of the present problem is possible without a rather full knowledge of the legislative history of these exemptions. I will not undertake to review the extensive record of these exemptions in the body of this statement, but I call your attention to statements already on record in the printed hearings of the House and Senate committees of Congress on this subject. The first of these statements is that of R. E.

Steele, representative of the National Fisheries Institute, Inc., delivered before the House of Representatives Committee on Labor on November 6, 1945. The second is the statement of John A. Fulham, representative of the National Fisheries Institute, Inc., before the Senate Committee on Labor and Public Welfare on April 29, 1948.

It is clear from the legislative history of these amendments that Congress has always recognized that the fisheries industry is beset with three important characteristics that distinguish it from the normal pattern of industrial activities. These factors are variance and unpredictability of the catch, the perishability of the product, and the exposure to foreign competition. It is also clear that Congress has viewed offshore and onshore activities as a single integral operation at least up to the point that perishability of product was no longer a factor and has undertaken to give both phases of these interdependent activities broad exemption from wage and hour control.

To remove the present exemptions applicable to onshore operations would be about as injurious to the fishing industry as cutting off one of your two legs. Both onshore and offshore operations are closely interwoven and are completely interdependent one on the other. Both phases of activities are affected by the same basic factors of variance of catch, perishability of product, and foreign competition which are the very foundation of the exemptions. These factors are just as much with us today as they were in 1938 and 1949, when the present fisheries exemptions were considered. Scheduling of fishery operations is just as difficult as ever. The circumstances of the catch and subsequent processing and marketing of fishery products is as diverse and complex as the colors of Joseph's coat. The onshore and offshore activities relating to each type and species of commercial fish and marine life have their own peculiar characteristics. And even within the same species, such as shrimp, there are variables of size and color that control the commercial value and distinguish the end use of the catch.

The second characteristic of high perishability of product is the same as before. Almost without exception, all species of fish and marine life are highly perishable and must be expeditiously and carefully handled so long as a state of perishability is present. Here, I wish to point out that in respect to a very substantial part of the catch, this factor of perishability continues right on through to final consumption of the product. To illustrate, if you will refer to page 11 of Fishery Leaflet 393, exhibit A, showing the disposition of the 1958 catch amounting to 4,716 million pounds round weight, 31.4 percent or 1,483 million pounds went to market in a fresh or frozen state. Canning accounted for 26.3 percent or 1,242 million pounds. Only 1.9 percent or 88 million pounds went into cured fish. The remaining 40.4 percent, amounting to 1,903 million pounds, went into byproducts and bait.

There is then the third and equally significant factor against domestic wage

control for the fisheries. This is the matter of exposure to foreign competition which threatens the very existence of the domestic fisheries. The U.S. fisheries industry is in a precarious position. Many operators have already been forced out of business and, no doubt, many others will follow.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

The question is on the amendment offered by the gentleman from Maryland [Mr. JOHNSON] to the substitute amendment offered by the gentleman from Oklahoma [Mr. ALBERT].

The question was taken; and on a division (demanded by Mr. JOHNSON of Maryland) there were—ayes 79, noes 196.

So the amendment was rejected.

The CHAIRMAN. All time for debate on the Ayres amendment and all amendments thereto has expired.

Mr. JENNINGS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JENNINGS to the substitute amendment offered by Mr. ALBERT: On page 25, delete lines 6 through 15, and substitute the following:

"EFFECTIVE DATE

"SEC. 14. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided in such amendments; except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act and except that the Secretary may, upon proper application from an employer with a term contractual agreement with the Federal Government, suspend the applicability of this Act as it applies to such employer until such contract expires but for no longer than one year after the date of enactment."

Mr. POWELL. Mr. Chairman, the committee accepts the amendment.

Mr. HALLECK. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HALLECK. The point of order is that all time for debate has expired and nobody may be recognized.

The CHAIRMAN. The gentleman is correct.

The question is on the amendment offered by the gentleman from Virginia.

The question was taken; and on a division (demanded by Mr. JENNINGS) there were—ayes 167, noes 158.

So the amendment was agreed to.

The CHAIRMAN. The question is on the Albert substitute to the Ayres amendment.

Mr. POWELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. POWELL. Mr. Chairman, is that as amended by the Vinson amendment?

The CHAIRMAN. It is the substitute as amended.

Mr. POWELL. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. ALBERT and Mr. GOODELL.

The Committee divided and the tellers reported that there were—ayes 185, noes 186.

So the substitute was rejected.

Mr. MARTIN of Nebraska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MARTIN of Nebraska as a substitute for the amendment offered by Mr. AYRES: Strike out all after the enacting clause and insert:

"That section 6(a)(1) of the Fair Labor Standards Act of 1938 is amended by striking out 'not less than \$1 an hour' and inserting in lieu thereof 'not less than \$1.15 an hour'.

"SEC. 2. The amendment made by the first section shall take effect upon the expiration of one hundred and twenty days after the date of the enactment of this Act."

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Nebraska [Mr. MARTIN].

The amendment was rejected.

The CHAIRMAN. The question now is on the Ayres amendment.

The question was taken; and the Chairman announced that he was in doubt.

Mr. POWELL. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers the gentleman from Ohio, Mr. AYRES, and the gentleman from California, Mr. ROOSEVELT.

The Committee divided, and the tellers reported that there were—ayes 206, noes 162.

So the amendment was agreed to.

The CHAIRMAN. The question recurs on the committee amendment as amended by the Ayres amendment.

The committee amendment as amended was agreed to.

The CHAIRMAN. Under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. WALTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes, pursuant to House Resolution 239, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule the previous question is ordered.

The question is on the amendment.

Mr. POWELL. Mr. Speaker, on this I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken and there were—yeas 216, nays 203, not voting 12, as follows:

[Roll No. 27]

YEAS—216

Abblitt	Andersen,	Ashmore
Abernethy	Minn.	Auchincloss
Adair	Anderson, Ill.	Avery
Alexander	Andrews	Ayres
Alford	Arends	Baker
Alger	Ashbrook	Barry

Bass, N.H.	Gavin	Mosher
Battin	Goodell	Murray
Becker	Goodling	Nelsen
Beckworth	Grant	Norblad
Beermann	Griffin	Nyggaard
Belcher	Gross	Ostertag
Bell	Gubser	Pelly
Bennett, Fla.	Hagan, Ga.	Pilcher
Berry	Haley	Pillion
Betts	Hall	Pirnie
Blitch	Halleck	Poage
Bolton	Hardy	Poff
Bow	Harris	Quie
Boykin	Harrison, Va.	Ray
Bray	Harrison, Wyo.	Reifel
Bromwell	Harsha	Rhodes, Ariz.
Brooks, La.	Harvey, Ind.	Riehlman
Broomfield	Harvey, Mich.	Riley
Brown	Hébert	Rivers, S.C.
Broyhill	Henderson	Robison
Bruce	Herlong	Rogers, Fla.
Burleson	Hiestand	Roudebush
Byrnes, Wis.	Hoeven	Rousselot
Casey	Hoffman, Ill.	Rutherford
Cederberg	Hoffman, Mich.	St. George
Chamberlain	Horan	Schadeberg
Chelf	Hosmer	Schenck
Chenoweth	Ikard	Scherer
Chiperfield	Jarman	Schneebeli
Church	Jensen	Scott
Clancy	Johansen	Scranton
Collier	Jonas	Selden
Colmer	Jones, Mo.	Short
Cramer	Judd	Shriver
Curtin	Kearns	Sibal
Curtis, Mass.	Kilburn	Sikes
Curtis, Mo.	King, N.Y.	Siler
Dague	Kitchin	Smith, Calif.
Davis,	Knox	Smith, Miss.
James C.	Kyl	Smith, Va.
Davis, John W.	Laird	Springer
Davis, Tenn.	Langen	Stafford
Derounian	Latta	Stephens
Derwinski	Lennon	Stubblefield
Devine	Lipscomb	Taber
Dole	Loser	Teague, Calif.
Dominick	McCulloch	Teague, Tex.
Dooley	McIntire	Thompson, Tex.
Dorn	McMillan	Thomson, Wis.
Dowdy	McSweeney	Tuck
Downing	McVey	Tupper
Durno	MacGregor	Utt
Ellsworth	Mahon	Van Pelt
Everett	Marshall	Van Zandt
Ewins	Martin, Mass.	Watts
Fenton	Martin, Nebr.	Weaver
Findley	Mason	Weis
Fisher	Mathias	Westland
Flynt	Matthews	Wharton
Ford	May	Whitten
Forrester	Meador	Williams
Fountain	Michel	Willis
Frazier	Mills	Wilson, Calif.
Frelinghuysen	Minshall	Wilson, Ind.
Garland	Moore	Winstead
Gary	Moorehead,	Young
Gathings	Ohio	Younger

NAYS—203

Addabbo	Corman	Hagen, Calif.
Addonizio	Cunningham	Halpern
Albert	Daddario	Hansen
Anfuso	Daniels	Harding
Ashley	Dawson	Hays
Aspinall	Delaney	Healey
Bailey	Dent	Hechler
Baldwin	Denton	Hemphill
Baring	Diggs	Hollfield
Barrett	Dingell	Holland
Bass, Tenn.	Donohue	Holtzman
Bates	Doyle	Huddleston
Bennett, Mich.	Dulski	Hull
Blatnik	Dwyer	Ichord
Boggs	Edmondson	Inouye
Boland	Elliott	Jennings
Bolling	Fallon	Joelsen
Bonner	Farbstein	Johnson, Calif.
Brademas	Fascell	Johnson, Md.
Breeding	Feighan	Johnson, Wls.
Brewster	Finnegan	Jones, Ala.
Brooks, Tex.	Fino	Karsten
Burke, Ky.	Flood	Karth
Burke, Mass.	Fogarty	Kastenmeier
Byrne, Pa.	Friedel	Kee
Cahill	Fulton	Keith
Cannon	Gallagher	Kelly
Carey	Garmatz	Keogh
Celler	Giamo	King, Calif.
Clark	Gilbert	King, Utah
Coad	Glcnn	Kirwan
Cohelan	Granahan	Kluczynski
Conte	Gray	Kornegay
Cook	Green, Oreg.	Kowalski
Cooley	Green, Pa.	Lane
Corbett	Griffiths	Lankford

Lesinski	O'Brien, N.Y.	Saund
Llbonati	O'Hara, Ill.	Saylor
Lindsay	O'Hara, Mich.	Schwelker
McCormack	O'Konski	Schwengel
McDowell	Olsen	Seely-Brown
McFall	O'Neill	Shelley
Macdonald	Osmer	Shipley
Machrowicz	Passman	Sisk
Mack	Patman	Slack
Madden	Perkins	Smith, Iowa
Magnuson	Peterson	Spence
Malliard	Pfost	Staggers
Merrow	Philbin	Steed
Miller, Clem	Pike	Stratton
Miller,	Powell	Sullivan
George P.	Price	Taylor
Milliken	Pucinski	Thomas
Moeller	Rains	Thompson, N.J.
Monagan	Randall	Thornberry
Montoya	Reuss	Toll
Moorhead, Pa.	Rhodes, Pa.	Trimble
Morgan	Rivers, Alaska	Ullman
Morris	Roberts	Vanik
Morrison	Rodino	Vinson
Morse	Rogers, Colo.	Wallhauser
Moss	Rogers, Tex.	Walter
Moulder	Rooney	Whitener
Multer	Roosevelt	Wickersham
Murphy	Rostenkowski	Widnall
Natcher	Ryan	Yates
Nix	St. Germain	Zablocki
O'Brien, Ill.	Santangelo	Zelenko

NOT VOTING—12

Buckley	McDonough	Thompson, La.
Kilday	Miller, N.Y.	Tollefson
Kilgore	Rabaut	Whalley
Landrum	Sheppard	Wright

So the amendment was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Kilgore for, with Mr. Rabaut against.
Mr. Landrum for, with Mr. Buckley against.
Mr. Miller of New York for, with Mr. Sheppard against.

Until further notice:

Mr. Kilday with Mr. McDonough.
Mr. Thompson of Louisiana with Mr. Tollefson.

Mrs. CHURCH changed her vote from "nay" to "yea."

Mr. PASSMAN changed his vote from "yea" to "nay."

Mr. BREEDING changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. Hiestand. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. Hiestand. I am, Mr. Speaker.

The SPEAKER. The gentleman qualifies. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Hiestand moves that the bill, H.R. 3935, be recommitted to the Committee on Education and Labor.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

Mr. POWELL. Mr. Speaker, on that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 196, nays 224, not voting 11, as follows:

[Roll No. 28]

YEAS—196

Addabbo	Gray	Multer
Addonizio	Green, Oreg.	Murphy
Albert	Green, Pa.	Natcher
Andersen, Minn.	Griffiths	Nix
Anfuso	Hagen, Calif.	O'Brien, Ill.
Ashley	Halpern	O'Brien, N.Y.
Bailey	Hansen	O'Hara, Ill.
Barling	Harding	O'Hara, Mich.
Barrett	Hays	Olsen
Bass, Tenn.	Healey	O'Neill
Bates	Hechler	Osmers
Bennett, Fla.	Hemphill	Passman
Blatnik	Hlestand	Patman
Boggs	Holifield	Perkins
Boland	Holland	Peterson
Bonner	Holtzman	Pfost
Brademas	Huddleston	Philbin
Breeding	Ichord, Mo.	Pike
Brewster	Inouye	Powell
Brooks, Tex.	Jarman	Price
Burke, Mass.	Jennings	Pucinski
Byrne, Pa.	Joelson	Randall
Cahill	Johnson, Calif.	Reuss
Cannon	Johnson, Wis.	Rhodes, Pa.
Carey	Jones, Mo.	Rivers, Alaska
Celler	Karsten	Rodino
Clark	Karth	Rogers, Colo.
Coad	Kastenmeier	Rogers, Tex.
Cohelan	Kee	Rooney
Conte	Keith	Roosevelt
Cook	Kelly	Rostenkowski
Cooley	Keogh	Ryan
Corbett	King, Calif.	St. Germain
Corman	King, Utah	Santangelo
Cunningham	Kirwan	Saund
Daddario	Kluczynski	Saylor
Daniels	Kornegay	Schweiker
Dawson	Kowalski	Schwengel
Delaney	Lane	Seely-Brown
Dent	Lankford	Shelley
Denton	Lesinski	Shipley
Diggs	Libonati	Sisk
Dingell	Lindsay	Slack
Donohue	McCormack	Smith, Iowa
Doyle	McDowell	Smith, Miss.
Dulski	McFall	Spence
Dwyer	Macdonald	Staggers
Edmondson	Machrowicz	Steed
Fallon	Mack	Sullivan
Farbstein	Madden	Taylor
Fascell	Magnuson	Thomas
Feighan	Marshall	Thompson, N.J.
Finnegan	Morrow	Thompson, Tex.
Fino	Miller, Clem	Toll
Fisher	Miller, George P.	Tollefson
Flood	Milliken	Ullman
Fogarty	Moeller	Vanik
Friedel	Monagan	Vinson
Fulton	Montoya	Wallhauser
Gallagher	Moorhead, Pa.	Walter
Garmatz	Morgan	Whitener
Gialmo	Morrison	Whitten
Gilbert	Morse	Wickersham
Glenn	Moss	Yates
Granahan	Moulder	Zablocki
		Zelenko

NAYS—224

Abbott	Bolton	Davis, John W.
Abernethy	Bow	Davis, Tenn.
Adair	Boykin	Derounian
Alexander	Bray	Derwinski
Alford	Bromwell	Devine
Alger	Brooks, La.	Dole
Anderson, Ill.	Broomfield	Domnick
Andrews	Brown	Dooley
Arends	Broyhill	Dorn
Ashbrook	Bruce	Dowdy
Ashmore	Burke, Ky.	Downing
Aspinall	Burleson	Durno
Auchincloss	Byrnes, Wis.	Elliott
Avery	Casey	Ellsworth
Ayers	Cederberg	Everett
Baker	Chamberlain	Evins
Baldwin	Chelf	Fenton
Barry	Chenoweth	Findley
Bass, N.H.	Chipperfield	Flynt
Battin	Church	Ford
Becker	Clancy	Forrester
Beckworth	Collier	Fountain
Beermann	Colmer	Frazier
Belcher	Cramer	Frelinghuysen
Bell	Curtin	Garland
Bennett, Mich.	Curtis, Mass.	Gary
Berry	Curtis, Mo.	Gathings
Betts	Dague	Gavin
Blitch	Davis, James C.	Goodell
Bolling		Goodling

Grant	McSweeney	St. George
Griffin	McVey	Schadeberg
Gross	MacGregor	Schenck
Gubser	Mahon	Scherer
Hagan, Ga.	Mailliard	Schneebeli
Haley	Martin, Mass.	Scott
Hall	Martin, Nebr.	Scranton
Halleck	Mason	Selden
Hardy	Mathias	Short
Harris	Matthews	Shriver
Harrison, Va.	May	Sibal
Harrison, Wyo.	Meador	Sikes
Harsha	Michel	Siler
Harvey, Ind.	Mills	Smith, Calif.
Harvey, Mich.	Minshall	Smith, Va.
Hebert	Moore	Springer
Henderson	Moorehead, Ohio	Stafford
Herlong	Morris	Stephens
Hoeven	Mosher	Stratton
Hoffman, Ill.	Murray	Stubblefield
Hoffman, Mich.	Nelsen	Taber
Horan	Norblad	Teague, Calif.
Hosmer	Nygaard	Teague, Tex.
Hull	O'Konski	Thomson, Wis.
Ikard	Ostertag	Thornberry
Jensen	Pelly	Trimble
Johansen	Pilcher	Tuck
Johnson, Md.	Pillion	Tupper
Jonas	Pirnie	Utt
Jones, Ala.	Poage	Van Pelt
Judd	Poff	Van Zandt
Kearns	Quie	Watts
Kilburn	Rains	Weaver
Kling, N.Y.	Ray	Wels
Kitchin	Reifel	Westland
Knox	Rhodes, Ariz.	Wharton
Kyl	Riehlman	Widnall
Laird	Riley	Williams
Langen	Rivers, S.C.	Willis
Latta	Roberts	Wilson, Calif.
Lennon	Robison	Wilson, Ind.
Lipscomb	Rogers, Fla.	Winstead
Loser	Roudebush	Young
McCulloch	Roussell	Younger
McIntire	Rutherford	
McMillan		

NOT VOTING—11

Buckley	McDonough	Thompson, La.
Kilday	Miller, N.Y.	Whalley
Kilgore	Rabaut	Wright
Landrum	Sheppard	

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Rabaut for, with Mr. Kilgore against.
Mr. Buckley for, with Mr. Landrum against.
Mr. Sheppard for, with Mr. Miller of New York, against.

Until further notice:

Mr. Kilday with Mr. McDonough.
Mr. Thompson of Louisiana with Mr. Whalley.

Mr. MACHROWICZ changed his vote from "nay" to "yea."

Mr. LIPSCOMB and Mr. HOFFMAN of Illinois changed their vote from "yea" to "nay."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. HALLECK. Mr. Speaker, on that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 340, nays 78, not voting 14, as follows:

[Roll No. 29]

YEAS—340

Adair	Auchincloss	Battin
Addabbo	Avery	Becker
Addonizio	Ayres	Beckworth
Albert	Bailey	Bell
Alexander	Baker	Bennett, Fla.
Alford	Baldwin	Bennett, Mich.
Anderson, Ill.	Barling	Boggs
Anfuso	Barrett	Boland
Arends	Barry	Bolling
Ashbrook	Bass, N.H.	Bolton
Ashley	Bass, Tenn.	Bonner
Aspinall	Bates	

Bow	Harding	Norblad
Boykin	Hardy	Nygaard
Brademas	Harris	O'Brien, Ill.
Bray	Harrison, Wyo.	O'Brien, N.Y.
Breeding	Harsha	O'Hara, Ill.
Brewster	Harvey, Mich.	O'Hara, Mich.
Bromwell	Hays	O'Konski
Brooks, La.	Healey	Olsen
Brooks, Tex.	Hechler	O'Neill
Broomfield	Hemphill	Osmers
Brown	Henderson	Ostertag
Burke, Ky.	Herlong	Passman
Burke, Mass.	Hoeven	Patman
Byrne, Pa.	Holifield	Pelly
Byrnes, Wis.	Holland	Perkins
Cahill	Holtzman	Peterson
Cannon	Horan	Pfost
Carey	Hosmer	Philbin
Cederberg	Huddleston	Pike
Celler	Hull	Pillion
Chamberlain	Ichord	Pirnie
Chenoweth	Inouye	Powell
Chipperfield	Jennings	Price
Church	Joelson	Pucinski
Clancy	Johnson, Calif.	Quie
Clark	Johnson, Md.	Rains
Coad	Johnson, Wis.	Randall
Cohelan	Jones, Ala.	Relf
Collier	Jones, Mo.	Reuss
Conte	Judd	Rhodes, Pa.
Cook	Karsten	Riehlman
Cooley	Karth	Rivers, Alaska
Corbett	Kastenmeier	Roberts
Corman	Kearns	Robison
Cramer	Kee	Rodino
Cunningham	Keith	Rogers, Colo.
Curtin	Kelly	Rogers, Fla.
Curtis, Mass.	Keogh	Rooney
Curtis, Mo.	King, Calif.	Roosevelt
Daddario	King, N.Y.	Rostenkowski
Daniels	King, Utah	Roudebush
Davis, John W.	Kirwan	Roussell
Davis, Tenn.	Kitchin	Rutherford
Delaney	Kluczynski	Ryan
Dent	Knox	St. George
Denton	Kornegay	St. Germain
Derounian	Kowalski	Santangelo
Derwinski	Kyl	Saund
Diggs	Laird	Saylor
Dingell	Lane	Schadeberg
Domnick	Lankford	Schenck
Donohue	Latta	Schneebeli
Dooley	Lennon	Schweiker
Dowdy	Lesinski	Scranton
Downing	Lindsay	Seely-Brown
Doyle	Lipscomb	Selden
Dulski	Loser	Shelley
Durno	McCormack	Shipley
Dwyer	McCulloch	Shriver
Edmondson	McDowell	Sibal
Elliot	McFall	Sikes
Ellsworth	McIntire	Siler
Everett	McVey	Sisk
Evins	Macdonald	Slack
Fallon	MacGregor	Smith, Iowa
Farbstein	Machrowicz	Spence
Fascell	Mack	Springer
Feighan	Madden	Stafford
Fenton	Magnuson	Staggers
Finnegan	Mailliard	Stratton
Fino	Marshall	Stubblefield
Flood	Martin, Mass.	Sullivan
Flynt	Mathias	Taylor
Fogarty	Matthews	Teague, Calif.
Ford	May	Thomas
Fountain	Meador	Thompson, N.J.
Frazier	Morrow	Thomson, Wis.
Frelinghuysen	Michel	Thornberry
Friedel	Miller, Clem	Toll
Fulton	Miller, George P.	Tollefson
Gallagher	Milliken	Trimble
Garland	Mills	Tupper
Garmatz	Moeller	Ullman
Gathings	Monagan	Vanik
Gavin	Montoya	Van Pelt
Glaimo	Moore	Van Zandt
Gilbert	Moorehead, Ohio	Wallhauser
Glenn	Moorhead, Pa.	Walter
Goodell	Morgan	Watts
Granahan	Morris	Weis
Gray	Morrison	Westland
Green, Oreg.	Morse	Wharton
Green, Pa.	Mosher	Whitener
Griffin	Moss	Wickersham
Griffiths	Moulder	Widnall
Gross	Multer	Wilson, Calif.
Gubser	Murphy	Wilson, Ind.
Hagen, Calif.	Natcher	Yates
Haley	Nelsen	Young
Halleck	Nix	Younger
Halpern		Zablocki
Hansen		Zelenko

NAYS—78

Abbitt	Forrester	Poage
Abernethy	Gary	Poff
Alger	Goodling	Ray
Andersen,	Grant	Rhodes, Ariz.
Minn.	Hagan, Ga.	Riley
Andrews	Hall	Rivers, S.C.
Ashmore	Harrison, Va.	Rogers, Tex.
Beermann	Harvey, Ind.	Scherer
Belcher	Hébert	Schwengel
Berry	Hiestand	Scott
Betts	Hoffman, Ill.	Short
Blitch	Hoffman, Mich.	Smith, Calif.
Broyhill	Ikard	Smith, Miss
Bruce	Jarman	Smith, Va.
Burleson	Jensen	Steed
Casey	Johansen	Stephens
Chelf	Jonas	Taber
Colmer	Kilburn	Teague, Tex.
Dague	Langen	Thompson, Tex.
Davis,	Libonati	Tuck
James C.	McMillan	Utt
Dawson	McSween	Vinson
Devine	Mahon	Weaver
Dole	Martin, Nebr.	Whitten
Dorn	Minshall	Williams
Findley	Murray	Winstead
Fisher	Plicher	

NOT VOTING—14

Buckley	Mason	Whalley
Kilday	Miller, N.Y.	Willis
Kilgore	Rabaut	Wright
Landrum	Sheppard	
McDonough	Thompson, La.	

So the bill was passed.

The clerk announced the following pairs:

On this vote:

Mr. Rabaut for, with Mr. Kilgore against.

Until further notice:

Mr. Buckley with Mr. Mason.

Mr. Landrum with Mr. McDonough.

Mr. Kilday with Mr. Miller of New York.

Mr. Sheppard with Mr. Whalley.

Mr. EDMONDSON changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. ROOSEVELT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks in the RECORD on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PROGRAM FOR NEXT WEEK

(Mr. HALLECK asked and was given permission to address the House for 1 minute.)

Mr. HALLECK. Mr. Speaker, I take this time for the purpose of inquiring of the majority leader as to the program for next week.

Mr. McCORMACK. Monday is District Day, and there is one bill, H.R. 258, increase in sales tax.

On Tuesday we will take up the Treasury-Post Office Department appropriation bill for 1962.

Thereafter, if rules are reported out of the Committee on Rules, we will take up S. 1, the distressed areas bill; H.R. 5742, the Reorganization Act, extending the powers of the President; H.R. 5723, providing housing loans for veterans. I

understand the Committee on Rules is meeting on Monday.

Mr. HALLECK. I thank the gentleman.

ADJOURNMENT OVER

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CALENDAR WEDNESDAY

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the call of Calendar Wednesday of next week be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

SERIOUS IMPORTS PROBLEM

(Mr. PHILBIN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PHILBIN. Mr. Speaker, on yesterday, following up my many efforts in behalf of the textile industry and other industries plagued and threatened by an increase in the flood of cheap foreign imports, I communicated with both the President and the Cabinet Committee on Textiles which he had previously appointed, urging that immediate attention be given to the serious plight of the textile industry and other affected industries.

I pointed out to the President and the Cabinet Committee the very serious conditions that have been developing over a period of time in textiles, and also affecting other industries, as a result of the flood of cheaply produced foreign imports.

I am fully convinced that the President is not only aware of these conditions but is anxious to relieve them, and I hope that administrative action may be taken at highest executive levels in the very near future to set up quotas on these products on a country by country and category by category basis, and take every other action that can feasibly be taken at this time to prevent the further deterioration of American industrial strength that is causing widespread unemployment and contributing greatly to the gold imbalance.

Over a period of years we have witnessed the tragic decline of the textile industry, which in my section of the country has been virtually driven to the wall by low, substandard competitive conditions in some other sections of the country and also by the huge flow of cheap foreign imports.

There are many who believe that legislative action is needed to correct conditions facing the textile industry and other industries arising from the operation of current reciprocal trade laws.

I have personally been of the opinion for a long time now, and I speak as a friend and supporter of constructive foreign trade and friendly intercourse with other nations, that the best way to correct these threatening conditions would be to restore the control over foreign trade and commerce coming into this country to the Congress, where the Constitution placed it.

If for any reason, this course is not followed, then the reciprocal trade laws certainly should be drastically revised to reflect unfavorable developments in the world that have come from huge foreign grants by this Government, that have permitted many countries to build factories that are fully equipped with most modern machinery paid for out of our foreign grants, operated by American know-how, producing goods that are marketed with the advice and help of American marketing experts, that are sold in the markets of the world in competition with our own and brought into this country to impose unfair, cut-throat competition on American industries and cause widespread unemployment and add to the gold imbalance.

I strongly feel that legislative measures are required and should be considered and adopted this year, because I do not believe that the suffering industries of this country can wait for relief until the expiration of the reciprocal trade treaties laws in 1962, without suffering additional destructive lethal blows from foreign competition.

I think we have another instance here of the effect of apathy, procrastination, and delay in tackling a situation which, if continued much longer, could be devastating to many industries and many American workers and their families.

Beyond any question of doubt, as I see it, foreign imports have been one of the major factors in the present recession and unless they are checked, they will continue to be even a greater factor as time goes on. They have also been a major factor in the gold imbalance, which is giving us all so much deep concern these days.

We are told that reciprocal trade is an integral part of our foreign policy and national defense. While I recognize the value of foreign trade, I cannot accept the thesis that it is necessary for good foreign relations and adequate national defense for this Nation to sacrifice its national interests, weaken its industrial prosperity, invite widespread unemployment and depression in many areas, in order to enjoy good relations with friendly nations, and in order to effect the best possible national defense for this country.

I am not at all persuaded this is a very sound policy. In fact, I think if we act on these assumptions, in time the consequences to our economic system, national prosperity and welfare could well be devastating.

I recognize with full respect the views of those who differ from this opinion, and I also recognize that at the present time, there are powerful forces within the country that would vigorously oppose any

H. R. 3935

MARCH 27, 1961

Read twice and referred to the Committee on Labor and Public Welfare

AN ACT

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Fair Labor Standards
4 Amendments of 1961”.

5 DEFINITIONS

6 SEC. 2. (a) Paragraph (f) of section 3 of the Fair
7 Labor Standards Act of 1938 is amended by inserting after

1 “Agricultural Marketing Act, as amended),” the following:
2 “the processing of shade-grown tobacco for use as cigar
3 wrapper tobacco by agricultural employees employed in the
4 growing and harvesting of such tobacco, which processing
5 shall include, but shall not be limited to, drying, curing,
6 fermenting, bulking, rebulking, sorting, grading, aging, and
7 baling, prior to the stemming process,” and in the case of
8 fruits and vegetables includes (1) transportation and prepa-
9 ration for transportation, whether or not performed by the
10 farmer, of the commodity from the farm to a place of first
11 processing or first marketing within the same State, (2)
12 transportation, whether or not performed by the farmer, be-
13 tween the farm and any point within the same State of per-
14 sons employed or to be employed in the harvesting of the
15 commodity.

16 (b) Paragraph (m) of section 3 of such Act, defining
17 the term “wage”, is amended by inserting before the period
18 at the end thereof a colon and the following: “*Provided, That*
19 the cost of board, lodging, or other facilities shall not be in-
20 cluded as a part of the wage paid to any employee to the
21 extent it is excluded therefrom under the terms of a bona
22 fide individual contract or collective bargaining agreement
23 applicable to the particular employee”.

(c) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs:

“(p) ‘Secretary’ means the Secretary of Labor.

“(q) ‘Enterprise’ means the related activities performed (either through unified operation or common control) by any person or persons for a common retail business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units but shall not include the related activities performed for such enterprise by an independent contractor:

Provided, That, within the meaning of this subsection, a local retail establishment which is under independent ownership and control shall not be deemed to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not limited to, an agreement (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such local establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies

1 premises leased to it by a person who also leases premises to
2 other retail or service establishments.

3 “(r) ‘Enterprise engaged in commerce or in the produc-
4 tion of goods for commerce’ means any enterprise which has
5 five or more retail establishments and which operates such
6 establishments in two or more States.

7 “(s) ‘Retail establishment’ shall mean an establishment
8 75 per centum of whose annual dollar volume of sales of
9 goods is not for resale and is recognized as retail sales in the
10 particular industry, but shall not include an establishment
11 which is primarily a service establishment such as (but not
12 limited to) hotels, motels, restaurants (including lunch
13 counters, cafeterias, and drive-ins), caterers, hospitals, laun-
14 dry or drycleaning establishments, motion-picture theaters,
15 amusement or recreational establishments, parking lots,
16 beauty or barber shops, and repair shops.”

17 INVESTIGATIONS OF EFFECTS OF FOREIGN COMPETITION ON
18 EMPLOYMENT

19 SEC. 3. Section 4 of such Act is amended by adding at
20 the end thereof the following new subsection:

21 “(e) Whenever the Secretary has reason to believe that
22 in any industry under this Act the competition of foreign
23 producers in United States markets or in markets abroad,
24 or both, has resulted, or is likely to result, in increased un-
25 employment in the United States, he shall undertake an in-

1 investigation to gain full information with respect to the matter
2 and shall make a full and complete report of his findings and
3 determinations to the President and to the Congress.”

4 SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND
5 THE VIRGIN ISLANDS

6 SEC. 4. Subsection (a) of section 5 of such Act is
7 amended by inserting, after the words “production of goods
8 for commerce” wherever they appear, the following: “or
9 employed by a retail establishment of an enterprise engaged
10 in commerce or in the production of goods for commerce”.

11 MINIMUM WAGES

12 SEC. 5. (a) (1) Section 6 (a) of such Act is amended
13 by inserting, after the word “who” in the portion thereof
14 preceding paragraph (1), the words “in any workweek”.

15 (2) Paragraph (1) of section 6 (a) of such Act is
16 amended to read as follows:

17 “(1) not less than \$1.15 an hour, except as other-
18 wise provided in this section;”.

19 (3) The first sentence of paragraph (3) of section
20 6 (a) of such Act is amended to read as follows:

21 “(3) if such employee is employed in American
22 Samoa, in lieu of the rates provided by this subsection or
23 subsection (b), not less than the applicable rate estab-
24 lished by the Secretary of Labor in accordance with

1 recommendations of a special industry committee or
2 committees which he shall appoint in the same manner
3 and pursuant to the same provisions as are applicable
4 to the special industry committees provided for Puerto
5 Rico and the Virgin Islands by this Act as amended
6 from time to time.”

7 (b) Subsection (b) of section 6 of such Act is amended
8 to read as follows:

9 “(b) Every employer shall pay to each of his em-
10 ployees who in any workweek (i) is employed by a retail
11 establishment of an enterprise engaged in commerce or in
12 the production of goods for commerce, as defined in section
13 3 (r), and who, except for the enactment of the Fair
14 Labor Standards Amendments of 1961, would not be
15 within the purview of this section, or (ii) is brought
16 within the purview of this section by the amendments made
17 to section 13 (a) of this Act by the Fair Labor Standards
18 Amendments of 1961, wages at the rate of not less than
19 \$1 an hour.”

20 (c) Subsection (c) of section 6 of such Act is amended
21 by changing the period at the end thereof to a colon, and
22 adding the following: “*Provided further*, That the Secre-
23 tary shall within sixty days after the enactment of the Fair
24 Labor Standards Amendments of 1961 appoint a special
25 industry committee in accordance with section 5 to recom-

1 mend the highest minimum wage rate or rates, in accordance
2 with the standards prescribed by section 8, not in excess of
3 the applicable rate provided by subsection (b), to be appli-
4 cable to such employee in lieu of the rate prescribed by
5 subsection (b). The rate or rates recommended by the
6 special industry committee shall be effective with respect
7 to such employee upon the effective date of the wage order
8 issued pursuant to such recommendation but not before sixty
9 days after the effective date of the Fair Labor Standards
10 Amendments of 1961.”

11 MAXIMUM HOURS

12 SEC. 6. Subsection (a) of section 7 of such Act is
13 amended by inserting after the word “who” the words “in
14 any workweek”.

15 WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

16 SEC. 7. (a) Section 8 of such Act is amended by insert-
17 ing after “section 6 (a)” wherever such words appear the
18 following: “or in section 6 (b), whichever may be appli-
19 cable”.

20 (b) Subsection (a) of section 8 of such Act is further
21 amended by inserting after the word “industries” where it
22 appears in the first sentence the words “or retail establish-
23 ments of enterprises”; and by inserting after the words “pro-
24 duction of goods for commerce” where they appear in the
25 second sentence the following: “or by any retail establish-

1 ment of an enterprise engaged in commerce or in the produc-
2 tion of goods for commerce.”

3 CHILD LABOR PROVISIONS

4 SEC. 8. Subsection (c) of section 12 of such Act is
5 amended by striking out the period at the end thereof and
6 inserting in lieu thereof the following: “or in any retail
7 establishment of an enterprise engaged in commerce or in the
8 production of goods for commerce.”

9 EXEMPTIONS

10 SEC. 9. (a) Clause (1) of section 13 (a) of such Act
11 is amended to read as follows: “(1) any employee employed
12 in a bona fide executive, administrative, or professional
13 capacity, or in the capacity of outside salesman (as such
14 terms are defined and delimited from time to time by regu-
15 lations of the Secretary, subject to the provisions of the Ad-
16 ministrative Procedure Act, except that an employee of a re-
17 tail establishment shall not be excluded from the definition of
18 employee employed in a bona fide executive or adminis-
19 trative capacity because of the number of hours in his work-
20 week which he devotes to activities not directly or closely
21 related to the performance of executive or administrative
22 activities, if less than 40 per centum of his hours worked in
23 the workweek are devoted to such activities) ; or”.

24 (b) Clause (2) of section 13 (a) of such Act is
25 amended to read as follows: “(2) any employee employed

1 by any retail or service establishment (except a retail estab-
2 lishment in an enterprise engaged in commerce or in the pro-
3 duction of goods for commerce, other than such a retail es-
4 tablishment which has an annual dollar volume of sales
5 (exclusive of excise taxes at the retail level which are sep-
6 arately stated) of less than \$250,000), more than 50 per
7 centum of which establishment's annual dollar volume of sales
8 of goods or services is made within the State in which the
9 establishment is located. A retail or service establishment
10 shall mean an establishment 75 per centum of whose annual
11 dollar volume of sales of goods or services (or of both) is
12 not for resale and is recognized as retail sales or services in
13 the particular industry; or".

14 (c) Clause (13) of section 13 (a) of such Act is
15 amended to reads as follows: "(13) any employee or
16 proprietor in a retail or service establishment which qualifies
17 as an exempt retail or service establishment under clause
18 (2) of this subsection with respect to whom the provisions
19 of sections 6 and 7 would not otherwise apply, engaged in
20 handling telegraphic messages for the public under an agency
21 or contract arrangement with a telegraph company where
22 the telegraph message revenue of such agency does not
23 exceed \$500 a month; or".

24 (d) Section 13 (a) of such Act is amended by changing
25 the period at the end thereof to a semicolon and adding the

1 following: "or (16) any employee employed by a retail
2 establishment who is employed in connection with a lunch
3 counter, restaurant, or cafeteria in such establishment; or
4 (17) any employee of a retail gasoline establishment; or
5 (18) any employee of an establishment which is primarily
6 engaged in the business of selling automobiles, trucks, or
7 farm implements."

8 (e) Section 13 (b) of such Act is amended by changing
9 the period at the end thereof to a semicolon and adding the
10 following: "or (6) any employee employed as an announcer,
11 news editor, or chief engineer by a radio or television station
12 the major studio of which is located in a city or town of one
13 hundred thousand population or less, according to the latest
14 available decennial census figures as compiled by the United
15 States Bureau of Census, except where such city or town
16 is part of a standard metropolitan area as defined and desig-
17 nated by the Bureau of Census, which has a total population
18 in excess of one hundred thousand; or (7) any employee em-
19 ployed by a retail establishment of an enterprise engaged in
20 commerce or in the production of goods for commerce whose
21 minimum rate of wages is governed by section 6 (b) of this
22 Act; or (8) any employee employed in a bona fide local
23 retailing capacity (as such term is defined and delimited from

1 time to time by regulations of the Secretary, subject to the
2 provisions of the Administrative Procedure Act).”

3 EMPLOYMENT OF STUDENTS

4 SEC. 10. Clause (1) of section 14 of such Act is
5 amended by striking out “and” after “apprentices,” and by
6 inserting after “messages”, the following: “and of full-time
7 students outside of their school hours,”

8 STUDY TO SIMPLIFY AND REMOVE INEQUITIES IN AGRI- 9 CULTURAL HANDLING AND PROCESSING EXEMPTIONS

10 SEC. 11. The Secretary of Labor shall study the com-
11 plicated system of exemptions now available for the handling
12 and processing of agricultural products under such Act and
13 particularly sections 7 (b) (3), 7 (c), and 13 (a) (10), and
14 shall submit to the second session of the Eighty-seventh Con-
15 gress at the time of his report under section 4 (d) of such Act
16 a special report containing the results of such study and in-
17 formation, data, and recommendations for further legislation
18 designed to simplify and remove the inequities in the applica-
19 tion of such exemptions.

20 EFFECTIVE DATE

21 SEC. 12. The amendments made by this Act shall take
22 effect upon the expiration of one hundred and twenty days
23 after the date of its enactment, except as otherwise provided

1 and except that the authority to promulgate necessary rules,
2 regulations, or orders with regard to amendments made by
3 this Act, under the Fair Labor Standards Act of 1938 and
4 amendments thereto, including amendments made by this
5 Act, may be exercised by the Secretary on and after the
6 date of enactment of this Act.

Passed the House of Representatives March 24, 1961.

Attest:

RALPH R. ROBERTS,

Clerk.

AN ACT

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

MARCH 27, 1961

Read twice and referred to the Committee on Labor
and Public Welfare

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

CONTENTS

Issued April 12, 1961
For actions of April 11, 1961
87th-1st, No. 60

Administrative orders.....4		
Bread imports.....25		
Budget.....7		
Dairy program.....18		
Depressed areas.....11		
Economics.....12		
Electrification.....13		
Employment.....17		
Farm labor.....2,16		
Farm program.....10		
Holiday.....27		
Housing.....14		
Legislative program.....9		
Lands.....15,23		
Loans.....9		
Milk.....18		
Minimum wage.....1		
Monopolies.....8		
Organization.....22		
Personnel.....17		
Property.....19,24		
Research.....3,6		
Seeds.....3		
School lunch.....26		
Sugar.....5		
Veterans' benefits.....9,21		
Water pollution.....6		
Wheat imports.....20		
Wildlife.....15		

HIGHLIGHTS: Senate committee voted to report minimum wage bill.

SENATE

1. MINIMUM WAGES. The Labor and Public Welfare Committee voted to report (but did not actually report) with an amendment in the nature of a substitute H. R. 3935, to amend the Fair Labor Standards Act and increase the minimum wage. The "Daily Digest" states that as approved by the committee the bill extends minimum wage coverage to approximately 4.1 million workers and increases the minimum wage to \$1.25 an hour, "which amount would be reached in 28 months for presently covered workers, the latter of whom would be given overtime protection, reaching the 40-hour maximum workweek in 52 months (until these points are reached \$1.15 minimum wage would be in effect)." pp. D231-2
2. FARM LABOR. The "Daily Digest" states that the Labor and Public Welfare Committee approved the filing of an interim report of the Subcommittee on Migratory Labor of its study of problems relating to migratory farm workers. p. D232

HOUSE

3. SEEDS; RESEARCH. The Judiciary Committee voted to report (but did not actually report) with amendment H. R. 2041, to remove the restriction on the interstate shipment of water-hyacinth plants or seeds to certain areas where the plants are unable to survive winter weather. p. D233

4. ADMINISTRATIVE ORDERS. The Judiciary Committee voted to report (but did not actually report) H. R. 5656, to provide for reasonable notice of applications to the U. S. courts of appeals for interlocutory relief against the orders of certain administrative agencies. p. D233
5. SUGAR. Received a Utah Legislature resolution urging Congress "to renew the Sugar Act and to provide for implementing long-term sugar legislation with equitable distribution of foreign quotas among friendly nations." p. 5227
6. WATER POLLUTION. Received an Ore. Legislature resolution favoring the establishment of a Pacific Northwest Pollution Control Laboratory by the U. S. Public Health Service. p. 5227
7. BUDGET. Received from the President an amendment to the budget for fiscal year 1962 involving an increase of \$1,905,000 for the Department of Health, Education, and Welfare (H. Doc. 133). p. 5226
8. MONOPOLIES. Rep. Patman inserted an address by Lee Loevinger, Chief of the Antitrust Division, Department of Justice, "Recent Developments in Antitrust Enforcement." pp. 5222-3
9. LEGISLATIVE PROGRAM. Rep. McCormack announced that if a rule is reported H. R. 5723, to extend the veterans' guaranteed and direct home loan program, will be considered on Thurs. p. 5221

ITEMS IN APPENDIX

10. FARM PROGRAM. Extension of remarks of Rep. Ashbrook inserting an editorial as a humorous letter to this Department regarding soil bank and stating that "it pierces with clarity the illusion of 'something for nothing' which seems to be a major national pastime for some of our citizens and indicates the real fallacy of the welfare state." pp. A2371-2
11. DEPRESSED AREAS. Extension of remarks of Rep. Derwinski inserting an editorial, "Field Day For Sharpies," criticizing certain aspects of the proposed depressed areas program. p. A2372
12. ECONOMICS. Extension of remarks of Rep. Hiestand inserting an article, "The Dollar Problem That Won't Shoo Away." pp. A2384-5
Extension of remarks of Rep. Curtis, Mo., inserting an article, "Taxes and Spending Can Be Cut." pp. A2402-3
13. ELECTRIFICATION. Extension of remarks of Rep. Ellsworth inserting an editorial and stating that it "points to an alarming situation involving a conflict between public power interests and the Pick-Sloan program." p. A2389
14. HOUSING. Extension of remarks of Rep. Younger inserting a letter addressed to the President by the editors of House and Home Magazine following his housing message. pp. A2391-2
15. WILDLIFE; LANDS. Extension of remarks of Rep. Johnson, Wis., stating that "Congress must act soon to speed up the purchase of lands for migratory bird refuges and waterfowl nesting areas." pp. A2395-6
16. FARM LABOR. Extension of remarks of Rep. Rogers, Fla., inserting two articles describing "some of the progress being made in Florida to solve problems

Daily Digest

HIGHLIGHTS

House passed miscellaneous bills.

Senate committee approved minimum wage bill.

Senate

Chamber Action

The Senate was not in session today. Its next meeting will be held Wednesday, April 12, at noon.

Committee Meetings

(Committees not listed did not meet)

DEFENSE BRIEFING

Committee on Armed Services: Committee, in executive session, concluded briefings on defense programs, after hearing testimony from Secretary of the Air Force Eugene M. Zuckert, and Air Force Chief of Staff Gen. Thomas D. White.

HOUSING

Committee on Banking and Currency: Subcommittee on Housing continued its hearings on pending housing legislation, receiving testimony from Floyd F. Higbee, Deputy Administrator, Farmers Home Administration, who was accompanied by his associates; Reuben Johnson, National Farmers Union; Philip Will, Jr., American Institute of Architects; Stuart Davis, U.S. Chamber of Commerce; Oscar H. Brinkman, National Apartment Owners Association, Inc.; and Karl S. Klicka, American Hospital Association.

Hearings continue tomorrow.

BRIEFING BY SECRETARY RUSK

Committee on Foreign Relations: Committee met in executive session to receive a briefing on the current world situation from Secretary of State Dean Rusk.

Also, in executive session, the committee heard further testimony from Thomas C. Mann, of Texas, nominated to be Ambassador to Mexico.

PADRE ISLAND NATIONAL SEASHORE

Committee on Interior and Insular Affairs: Subcommittee on Public Lands held hearings on S. 4, to establish Padre Island National Seashore, with testimony from the following witnesses: Senator Yarborough; Stewart L. Udall, Secretary of the Interior; Max Edwards, Legis-

lative Counsel, Department of the Interior; Ben Thompson, National Park Service; Mayor Ben McDonald, W. R. Roberts, Joe DeLeon, and David M. Coover, all of Corpus Christi; Judge Oscar Dancy, Brownsville, Tex.; Ormond Yramategui, and Mrs. Esther Goodrich, both of the Texas Conservation Council, Houston; and Art Baughman, Willacy County Commissioner, Texas.

Hearings continue on Thursday, April 13.

NOMINATIONS

Committee on Interstate and Foreign Commerce: Committee held and concluded hearings on the nomination of Howard Morgan, of Oregon, to be a member of the FPC, with testimony from Senator Neuberger; Representatives Green of Oregon and Ullman; William Berg, Jr., who read a statement on behalf of Senator Morse; and the nominee.

Hearings were also held on the nomination of Joseph C. Swidler, of Tennessee, also to be a member of the FPC, with testimony from Senators Kefauver and Gore; Representative Loser; and the nominee. Hearings were recessed subject to call of the Chair.

MINIMUM WAGE, AND NOMINATION

Committee on Labor and Public Welfare: Committee, in executive session, ordered favorably reported with an amendment in the nature of a substitute H.R. 3935, proposed amendments to the Fair Labor Standards Act. As approved by the committee, the bill would (1) extend minimum wage coverage to approximately 4.1 million workers, the majority of whom are in the retail trades and services, (2) adopt the \$1.25 minimum wage, which amount would be reached in 28 months for presently covered workers, and in 40 months for newly covered workers, the latter of whom would be given overtime protection, reaching the 40-hour maximum workweek in 52 months (until these points are reached \$1.15 minimum wage would be in effect), and (3) adopt the so-called "inflow" test, which means that retail and service enterprises would be covered by the bill, only if they met the following test: (a) the employer must be engaged in commerce or the production of goods for

commerce, (b) the employer must receive \$250,000 worth of goods, for resale, which have moved across State lines (so-called "inflow" test), and (c) the employer must have an annual gross volume of sales of not less than \$1 million, exclusive of excise taxes at the retail level.

The committee also approved the nomination of Gerald A. Brown, to be a member of the National Labor Relations Board, and the filing of an interim report of the Subcommittee on Migratory Labor, pursuant to S. Res. 267, the 86th Congress, 2d session (with minority views).

House of Representatives

Chamber Action

Bills Introduced: 51 public bills, H.R. 6162-6212; 28 private bills, H.R. 6213-6240; and 7 resolutions, H.J. Res. 361-366, and H. Res. 250, were introduced.

Pages 5226-5228

Bill Reported: One report was filed as follows: H.R. 3507, to provide for the withdrawal and reservation for the Departments of the Air Force and the Navy of certain U.S. public lands at Luke-Williams Air Force Range, Yuma, Ariz., for defense purposes (H. Rept. 217).

Page 5226

African Freedom Day: Adopted H. Res. 232, providing for designating April 15 as African Freedom Day and extension of congratulations to the independent countries of Africa and assurance of our continued good will.

Pages 5202-5203

Calendar Wednesday: Agreed to dispense with Calendar Wednesday business of April 12.

Page 5203

Consent Calendar: Passed the following bills on the call of the Consent Calendar:

Cleared for the President:

Mobile, Ala., medal: S. 900, providing for the striking of medals in commemoration of the 250th anniversary of the founding of Mobile, Ala.

Indians: S. 1295 (in lieu of H.R. 3898), to authorize the use of funds arising from a judgment in favor of the Nez Perce Tribe of Indians.

Indians: S. 1297 (in lieu of H.R. 4279), to authorize the payment of per diem to members of the Indian Arts and Crafts Board at the same rate that it is authorized for other persons serving the Federal Government without compensation.

Indians: S. 1298 (in lieu of H.R. 3562), to permit the Secretary of the Interior to revoke in whole or in part the school and agency farm reserve on the Lac du Flambeau Reservation.

Sent to the Senate without amendments:

Veterans' deaf compensation: H.R. 846, to amend U.S. Code to provide additional compensation for veterans having service-incurred disability of deafness of both ears.

Veterans: H.R. 873, to amend U.S. Code relative to increased compensation for certain service-connected disabled veterans.

Indians: H.R. 3572, to place in trust status certain lands on the Crow Creek Indian Reservation in South Dakota.

Naval reservists' status: H.R. 4349, to place Naval Reserve training graduates (Regular) in a status comparable with U.S. naval graduates.

Sent to the Senate amended:

Transportation Week: H.J. Res. 143, authorizing the President to proclaim the week in May of each year in which falls the third Friday of that month as National Transportation Week.

Indians: H.R. 567, to authorize longer term leases of Indian lands on the Torres-Martinez Reservation in Riverside County, Calif.

Veterans: H.R. 859, relating to repeal of "mustering-out payments" section of title 38, U.S. Code.

Indians: H.R. 3575, to amend the act of August 9, 1955, to authorize longer term leases of Indian lands on the Agua Caliente (Palm Springs) Reservation, and the Seminole Reservations in Florida.

Bills not considered:

Passed over without prejudice: H.J. Res. 73 and H.R. 861.

Pages 5203-5208

Private Calendar: Passed the following bills on the call of the Private Calendar:

Cleared for the President: S. 178 and 298.

Sent to the Senate without amendment: H.R. 1297, 1346, 1366, 1379, 1447, 1461, 1467, 1478, 1501, 1523, 1535, 1578, 1610, 1621, 1663, 1704, 1871, 1873, 1896, 1902, 2086, 2090, 2129, 2138, 2180, 2188, 2331, 2816, 2972, 3105, 3129, 3402, 3498, 3634, 3842, 4206, 4217, 4219, 4500, 4635, 4640, 4713, 5176, 5178, 5179, 5180, and 5457.

Sent to the Senate, amended: H.R. 1291, 1320, 1329, 1351, 1367, 1368, 1397, 1424, 1453, 1481, 1508, 1572, 1622, 1886, 1895, 2101, 2143, 2158, 2179, 2195, 2354, 2681, 2993, 3010, 3383, 3606, 3850, and 4476.

Passed over without prejudice: H.R. 1414, 1449, 1623, 1887, 2686, 3843, and 4872.

Pages 5208-5220

Legislative Program: The majority leader announced that H.R. 6027, social security amendments of 1961, would not be brought up this week but that H.R. 5723, to extend the veterans' guaranteed and direct home loan program and to provide additional funds for the veterans' direct loan program, would be considered on Thursday if a rule thereon is granted.

Page 5221

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

Issued April 13, 1961
For actions of April 12, 1961
87th-1st, No. 61

CONTENTS

ASC committees.....	18
Classification.....	5
Coffee.....	10
Committees.....	13
Consumers.....	3
Depressed areas.....	6, 14
Economic reports.....	15
Economics.....	25
Electrification.....	26
Farm labor.....	2, 22
Farm program.....	20
Fiscal policy.....	15
Fisheries.....	28
Food for peace.....	23
Foreign currencies.....	7
Forestry.....	21
Grapes and plums.....	31
Housing credit.....	15
Information.....	35
Lands.....	17, 34
Loans.....	16, 26

Minimum wage.....	1
Natural resources.....	19
Nominations.....	12
Patents.....	8
Peace Corps.....	11
Personnel.....	5, 29
Price stability.....	15
Property.....	32
Public works.....	4
Reclamation.....	33
Retirement.....	5
Taxation.....	27
Training.....	5
Transportation.....	30
Veterans' loans.....	16
Water.....	34
Water resources.....	9
Wheat.....	24

HIGHLIGHTS: Senate committee reported minimum wage bill. Sen. Metcalf commended and inserted Secretary's speech.

SENATE

1. MINIMUM WAGE. The Labor and Public Welfare Committee reported with an amendment in the nature of a substitute H. R. 3935, to amend the Fair Labor Standards Act and increase the minimum wage to \$1.25 an hour (S. Rept. 145). pp. 5233-6
2. FARM LABOR. Sen. Javits commended the Migratory Labor Subcommittee of the Senate Labor and Public Welfare Committee for beginning hearings on legislative proposals relating to migratory farm labor, stating that "it is a program that will and quite properly should provoke honest debate, reasonable differences of opinion and assertions of varying self-interests," and inserted an address by Sen. Williams, N. J., before the National Farm Labor Conference discussing the various farm labor bills to be considered by the subcommittee. pp. 5314-6
3. CONSUMERS. Sen. Neuberger commended Secretary Freeman's address at the University of Illinois Farm and Home Festival in Urbana, Ill., particularly his remark that "consumers should and will have an important voice in the formulation of new farm programs," and she inserted a release of this Department summarizing the Secretary's remarks. pp. 5313-4

4. PUBLIC WORKS. Sen. Dirksen inserted a letter he had received expressing concern by engineers in private practice "over the misconceptions apparent in the discussions about the cost of engineering done on public works projects." pp. 5275-6
5. PERSONNEL. Received from the Civil Service Commission proposed bills to: "amend the act of August 23, 1958, an act to clarify the application of section 507 of the Classification Act of 1949 with respect to the preservation of the rates of basic compensation of certain employees in cases involving downgrading actions"; "amend the disability retirement provisions of the Civil Service Retirement Act"; and "amend section 4 of the Government Employees Training Act"; to Post Office and Civil Service Committee. p. 5230
6. DEPRESSED AREAS. Received a Wisc. Legislature resolution favoring enactment of S. 1, the depressed areas bill. p. 5230
7. FOREIGN CURRENCIES. Received from the Interstate and Foreign Commerce Committee and the Joint Committee on Atomic Energy reports on the use of foreign currencies in connection with foreign travel by Members and employees of the committees. pp. 5236-42
8. PATENTS. Sen. McClellan announced that the Subcommittee on Patents, Trademarks, and Copyrights of the Judiciary Committee would commence hearings Apr. 18 on S. 1084 and S. 1176, dealing with Government patent policy. p. 5266
9. WATER RESOURCES. Sen. Kefauver inserted several items discussing the proposal for an International Water Year. pp. 5288-90
10. COFFEE. Sen. Fong inserted an editorial, "Coffee Headaches," discussing the difficulty of stabilizing the price of coffee. p. 5290
11. PEACE CORPS. Sen. Humphrey inserted a recent What America Thinks poll indicating that most Americans support the establishment of a Peace Corps. p. 5295
12. NOMINATIONS. Received the nominations of Julian B. Thayer and Joe B. Zeug to be members of the Federal Farm Credit Board, Farm Credit Administration. p. 5318
13. COMMITTEES. The Rules and Administration Committee voted to report (but did not actually report) S. Res. 117, to change the name of the Committee on Interstate and Foreign Commerce to the Committee on Commerce. p. "236

HOUSE

14. DEPRESSED AREAS. Conferees were appointed on S. 1, the depressed areas bill. Senate conferees have already been appointed. p. 5319
15. ECONOMIC REPORT. Rep. Curtis (Mo.) inserted the statement of the Council of Economic Advisors of Mar. 6, 1961, before the Joint Economic Committee, in which is discussed the state of the economy, housing credit, fiscal policy, policy for growth, and price stability. pp. 5329-47
16. VETERANS' LOANS. The Rules Committee reported a resolution for the consideration of H. R. 5723, to extend the veterans' guaranteed and direct home loan program and to provide additional funds for the veterans' direct loan program. p. 5350

FAIR LABOR STANDARDS AMENDMENTS OF 1961

APRIL 12, 1961.—Ordered to be printed

Mr. McNAMARA, from the Committee on Labor and Public Welfare,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3935]

The Committee on Labor and Public Welfare, to whom was referred the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service, and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all of the referred bill after the enacting clause and inserts a new text which is shown in the reported bill in italic type.

PART I. INTRODUCTORY STATEMENT

1. History of this legislation

The purpose of the bill, as amended, is to strengthen and extend the scope of the Fair Labor Standards Act of 1938, thus implementing the declared policy of the act to correct and as rapidly as practicable to eliminate, in industries engaged in commerce or in the production of goods for commerce, labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers. The bill seeks to further this purpose by increasing the minimum wage of those employees presently covered by the act to \$1.15 an hour for the first 2 years after the effective date and to \$1.25 an hour thereafter, and by extending the benefits of the law to about 4.1 million additional workers employed in large retail

and service enterprises engaged in commerce or in the production of goods for commerce and by other employers who are so engaged.

The bill, as amended and reported by the committee, is essentially the same as the bill which the Senate passed last year. The bill passed by the Senate last year was not enacted into law because the conference committee could not agree. Thus, this measure for improving the standards of the lowest paid workers in our economy has been delayed another year. The economic considerations which prompted the Senate to pass the bill last year have not significantly changed with respect to these low wage workers; the year of delay has only increased the need for this legislation which is long overdue.

The bill reported by the committee has two major purposes. First, it will raise the minimum wage now received by 3 million workers to \$1.25 an hour. Second, it will extend protection of the Fair Labor Standards Act to 4,100,000 additional employees mainly in large retail and service enterprises which are engaged in commerce or in the production of goods for commerce.

As President Kennedy stated when as a Senator he presented this legislation to the Senate last year:

Conscience and good business sense join in demanding the enactment of this measure. The bill will extend to the lowest paid worker in the country * * * a fairer opportunity to share our high standard of living. To pass them by—to water down the help they need * * * shocks the conscience of those who care.

The increases in purchasing power resulting from a higher minimum wage will help to restore consumer demand to put our idle industrial capacity back to work; and what is equally important, it will serve as a source of protection to employers who pay a decent wage and who must compete with employers who pay a substandard wage. * * *

The pending bill is the result of long and careful study. Hearings on this legislation were held by the Subcommittee on Labor of the Committee on Labor and Public Welfare in February and March of this year. Over 30 witnesses representing major groups in labor and in industry and from the public were heard. In addition, 86 formal statements were filed. The committee also had before it the hearings held on this legislation in 1959 which culminated in the bill passed by the Senate last year. It also had before it the records of the hearings held in prior years, both by the Senate as well as by the House of Representatives.

2. The bill passed by the House.

The committee considered the approach to this legislation contained in the bill (H.R. 3935) which was passed by the House of Representatives and which extends coverage only to enterprises having five or more retail establishments in two or more States. The committee rejected the approach in the House-passed bill.

The committee believes that the coverage provided by the House-passed bill is unsound and inequitable. It is the type of legislation that falls unequally on employers engaged in the same type of business in the same area competing with each other. It would cover one employer but not his competitor, even if both are located side by side

doing the same type and the same volume of business and buying the same volume of merchandise from outside the State.

In fact, it will leave out of coverage huge enterprises doing as much as \$150 million in annual business, while it would cover a competing store which, for example, may do only a half million dollars a year, merely because the competitor has another store across the State line.

The argument that the power of the Congress under the commerce clause of the Constitution extends to establishments located in a single State only if the enterprise has another store in another State is as fallacious in its legal concept as the result is unjust in its practical application.

First, there is no basis for the assumption that an enterprise located solely within one State is engaged in interstate commerce activities to a lesser extent than a similar enterprise which also has one store in another State. The question in each case is the extent to which these enterprises are engaged in buying and selling goods across State lines. The fact that a store is located in another State provides no guarantee that a greater amount of goods will flow across State lines.

Second, the Congress has already taken jurisdiction of establishments located entirely in one State if the establishment is engaged in interstate commerce, even if it is not part of an enterprise that has a store in another State. The exercise of Federal authority under the commerce clause of the Constitution with respect to employment in retailing and with respect to goods which have moved across State lines and are held for local disposition, is not novel. Prior to the so-called no-man's land amendment to the National Labor Relations Act, made by the Labor-Management Reporting and Disclosure Act of 1959, the National Labor Relations Act was repeatedly held to provide exclusive procedures, and to bar State action, with respect to labor relations problems of retailers handling goods that had moved across State lines, even though all or most of their sales were within the State of location. (See *Meatcutters v. Fairlawn Meats*, 353 U.S. 20 (three retail meat markets, all of whose sales were intrastate, but whose annual out-of-State purchases totaled slightly more than \$100,000 out of gross purchases of \$900,000); *San Diego Unions v. Garmon*, 353 U.S. 26 (two retail lumber yards whose out-of-State purchases totaled \$250,000). See also *Howell Chevrolet Co. v. N.L.R.B.*, 346 U.S. 482 (retail automobile dealer purchasing from local warehouse of General Motors autos and parts manufactured out of the State).)

The constitutional power of Congress under the commerce clause to exercise authority with respect to "articles that have completed an interstate shipment and are being held for future sales in purely local or intrastate commerce" is also settled (*United States v. Sullivan*, 332 U.S. 689 (druggist convicted of failure to comply with labeling requirements for sulfathiazole which was sold to customers after having moved in commerce)). A recent exercise by the Congress of this authority is the legislation (Public Law 85-506) requiring certain information for prospective purchasers to be kept posted on new automobiles prior to their sales to the ultimate consumer and providing penalties for any willful removal or alteration of the label containing the required information.

Third, we have a specific precedent in the Fair Labor Standards Act itself of the power of the Congress under the commerce clause of

the Constitution to legislate in the area proposed by the committee bill. Extension of retail coverage—the major thrust of the committee bill—is tied explicitly to the criterion of the enterprise engaging in commerce or in the production of goods for commerce. This is a restatement of the criterion used in the original Fair Labor Standards Act and the subsequent amendments. Thus the present act covers wholesalers and, in fact, retailers also, even if they are located entirely within one State if they purchase goods from outside the State or sell them across State lines and thereby engage in interstate commerce.

Fourth, the courts have upheld this as a proper exercise of the constitutional powers of the Congress. Thus the Supreme Court in the leading case on the constitutionality of the Fair Labor Standards Act (*U.S. v. Darby Lumber Co.*, 1941, 312 U.S. 100) said:

The power of Congress over interstate commerce is not confined to the regulation of commerce among the States. It extends to those activities intrastate which so affect interstate commerce or the exercise of the power over it as to make the regulation of them appropriate means to the attainment of a legitimate end, the exercise of the granted power of Congress to regulate interstate commerce. * * * The Sherman Act and the National Labor Relations Act are familiar examples of the exertion of the commerce power to prohibit or control activities wholly intrastate because of their effect on interstate commerce.

The fact that the minimum wage and overtime provisions of the present act extend only to some and not all employees of an employer engaged in commerce is due entirely to the restrictive wording of the statute and not to any question of jurisdiction; thus other provisions of the act extend to the employers who are engaged in commerce. In fact, they extend to an entire industry which is engaged in commerce or in the production of goods for commerce. For example, section 11(a) of the present act provides that the Secretary may investigate and gather data regarding wages and hours and other conditions of employment “in any industry subject to this act.” Further, section 11(c) applies to every “employer subject to any provision of this act,” and the enforcement provisions of the act apply, of course, on an employer basis.

All of these provisions have been held to be a proper exercise of the constitutional authority time and time again during the 22 years that the law has been on the statute books, so that no doubt now exists as to the propriety of congressional action within this area.

Fifth, the committee bill remains well within the scope of coverage set forth as the basis for the present law. Thus the present law states in its finding and declaration of policy that it is the purpose of this act to eliminate from “industries engaged in commerce” conditions detrimental to the maintenance of the minimum standards of living necessary for health, efficiency, and general well-being of workers.

The committee bill extends coverage not to an entire industry but only to individual enterprises which are engaged in commerce or in the production of goods for commerce. Moreover, to make doubly certain that coverage of retail and service enterprises remains well within the framework of the present law, the committee bill covers such enterprises which are engaged in commerce or in the production of goods for commerce only if, in addition, the enterprise purchases or

receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more.

Finally, the million dollar test in the committee bill is not the constitutional standard for coverage. The constitutional standard for coverage is contained in these requirements which have just been discussed. The million dollar test is an economic test. It is the line which the Congress must draw in determining who shall and who shall not be covered by a minimum wage. It is a way of saying that anyone who is operating a business of that size in commerce can afford to pay his employees the minimum wage under this law.

The committee has given careful consideration to this constitutional question and it is convinced that there is no reasonable doubt that the basis of coverage in the committee bill is well within the scope of the power of the Congress under the commerce clause of the Constitution.

A detailed legal analysis of the coverage provisions of the committee reported bill is contained later in this report.

3. Conclusion

The committee bill as pointed out above is substantially identical with the bill passed by the Senate last year. Whatever changes were made were designed to deal with specific problems which were brought to the committee's attention in the course of its deliberations. Thus, for example, special treatment has been given to assistant managers in retail stores and employees of such establishments who are paid primarily on a commission basis and with respect to the employment of student workers. Certain other changes were made as explained below, designed to make this law a practical and effective instrument to carry out the original intent of the statute without imposing hardships on the industries affected.

The committee believes that, in the course of the consideration of this legislation which has extended over a number of years, whatever problems might have been encountered have been considered and exceptions and exemptions have been made where the facts and circumstances warranted special treatment under the act.

With these considerations the committee has made its recommendation that the bill, as reported, do pass.

The material that follows explains the provisions of the reported bill and compares them with the bill as passed by the Senate last year. It also brings up to date the economic and other information which was before the Senate last year.

PART II. THE PRESENT ACT

The Fair Labor Standards Act was enacted in 1938. The basic purpose of the act was contained in section 2, in its finding and declaration of policy:

(a) The Congress hereby finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of

commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce.

(b) It is hereby declared to be the policy of this act, through the exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power.

With reference to the objectives of the act, the Supreme Court, speaking through Mr. Justice Burton, has observed:

* * * In this act, the primary purpose of Congress was not to regulate interstate commerce as such. It was to eliminate, as rapidly as practicable, substandard labor conditions throughout the Nation. It sought to raise living standards without substantially curtailing employment or earning power. * * *

The act declared its purpose in bold and sweeping terms. Breadth of coverage was vital to its mission. Its scope was stated in terms of substantial universality. * * * (*Powell v. United States Cartridge Co.*, 339 U.S. 497).

In contrast with the objectives of the act, however, its present coverage is much more limited in scope.

Of the total of approximately 45 million wage and salary workers (excluding Government employees and executive, administrative, and professional employees) in the United States, only about 24 million are protected by the minimum wage provisions of the act.

Since 1938 there has been virtually no change in the group of employees covered by the act, although the minimum rate for those employees who are covered was increased from \$0.40 to \$0.75 in 1949, and to \$1 an hour in 1955. The result of this approach has been to widen the gap between the earnings of those employees protected by the law and those to whom the law does not apply.

It should be noted here that the basic purpose of the act, set forth by the Congress in 1938 in section 2(a), finds the existence of the conditions referred to therein in "industries engaged in commerce or in the production of goods for commerce," and in section 2(b) the Congress set forth the policy to correct and as rapidly as practicable to eliminate those conditions "in such industries." However, the coverage of the present act extends only to those individual employees who can be proved to be personally engaged in interstate commerce or in the production of goods for interstate commerce. Thus the act has not been extended to those areas which the Congress could have reached within the broad purpose set forth in the act itself.

The committee believes, therefore, that there exist substantial gaps in the minimum wage-hour protection of the act in large enterprises of various kinds and in other areas which, because of their size and

importance to our national economy, should be brought within the coverage of the act.

PART III. SUMMARY OF MAJOR PROVISIONS

The committee bill makes the following principal changes in the Fair Labor Standards Act of 1938, as amended (in parentheses, following each item, is shown a comparison with the bill as passed by the Senate last year):

A. MINIMUM WAGE FOR PRESENTLY COVERED

For workers to whom a minimum wage of \$1 an hour now applies, the rate would be increased to: \$1.15 during the first 2 years; \$1.25 thereafter. (The Senate-passed bill last year set the rates at \$1.15 the first year, \$1.20 the second, and \$1.25 thereafter.)

B. WAGES AND HOURS FOR NEWLY COVERED

For workers newly brought under the minimum wage and overtime provisions of the act, the committee bill establishes the following schedule for reaching the minimum of \$1.25 an hour and the basic workweek of 40 hours:

	Minimum hourly wage	Overtime requirements
1st year after enactment.....	\$1.00.....	No overtime requirements.
2d year after enactment.....	1.05.....	After 44 hours a week.
3d year after enactment.....	1.15.....	After 42 hours a week.
Thereafter.....	1.25.....	After 40 hours a week.

(The same as the Senate-passed bill last year.)

C. COVERAGE

Coverage of the act is extended to the following categories of enterprises (except those specifically exempted) which are "engaged in commerce or in the production of goods for commerce":

1. *Retail and service trade.*—The committee bill covers retail or service enterprises which are engaged in commerce as described above, if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more, and if the annual gross volume of sales of such enterprise is not less than \$1 million, exclusive of excise taxes at the retail level which are separately stated. (The Senate-passed bill last year covered retail or service enterprises with \$1 million in annual sales if they were engaged in any activity affecting commerce.)

The bill, however, exempts the following types of establishments and employees in the retail trade:

(a) *Small stores in any covered retail enterprise* are exempt from both minimum wage and overtime if the store has less than \$250,000 in annual sales (exclusive of excise taxes)—last year's "Fulbright Amendment." (Same as Senate passed bill last year.)

(b) *Hotels, motels, and restaurants* are exempt from both minimum wage and overtime. (Similar to Senate-passed bill last year.)

(c) *Motion picture theaters* are exempted from both minimum wage and overtime. (Same as Senate passed bill last year.)

(d) *Amusement or recreational establishments* which operate on a seasonal basis are exempted from both minimum wage and overtime. (Senate-passed bill last year excluded only nonprofit hospitals.)

(e) *Hospitals, nursing homes, and schools for the handicapped or gifted children* are exempted from both minimum wage and overtime. (Same as Senate passed bill last year.)

(f) *Automobile dealers and farm implement dealers* are exempt from the overtime requirements. (The Senate passed bill last year exempted such establishments from both the minimum wage and overtime requirements.)

(g) *Commissions*.—The bill exempts from overtime employees who receive more than half their pay in commissions if their pay equals at least time and one half the minimum rate. (The Senate passed bill last year contained no such provision.)

(h) *Executive or administrative employees (assistant managers)*.—The committee bill exempts such employees in retail stores from both minimum wage and overtime even if they perform up to 40 percent nonexecutive and nonadministrative work. (The Senate passed bill last year contained no such provision.)

(i) *Student workers*.—The committee bill permits the employment of such workers at subminimum rates in positions not ordinarily given to full-time employees. (The Senate passed bill last year contained no such provision.)

2. *Laundries*.—(a) The committee bill covers laundry and dry cleaning enterprises which are engaged in commerce as described above, if the annual volume of sales of the enterprise is not less than \$1 million (exclusive of excise taxes).

(b) It also removes from the exemption in the present law any laundry which has \$250,000 in annual sales if it is in substantial competition in the same metropolitan area with a laundry which does more than half of its business across State lines.

(c) The bill also removes from the exemption in the existing law any laundry which does more than 25 percent "commercial" work. (These provisions are the same as in the Senate-passed bill last year.)

(d) The bill also provides that laundry workers of hotels, motels, and restaurants shall be exempt only if such work is exclusively on their own establishment's laundry. (The Senate-passed bill last year contained no such provision.)

3. *Interurban and metropolitan transit*.—The committee bill covers transit enterprises for minimum wage but not for overtime. (Same as Senate-passed bill last year.)

4. *Establishments which now have covered employees*.—The committee bill covers all employees of an establishment (not included in other categories of new coverage), which has some employees covered by the present law if the establishment is part of an enterprise that has \$1 million or more in annual sales. (The Senate-passed bill last year covered such establishments which had \$250,000 or more in annual sales.)

5. *Construction enterprises*.—The committee bill covers such enterprises which have at least \$350,000 in annual business. (Same as Senate-passed bill last year.)

6. *Gasoline service establishments*.—The committee bill covers for minimum wage but not for overtime gasoline service establishments which have not less than \$250,000 in gross annual sales (exclusive of excise taxes at the retail level which are separately stated). (Same as Senate-passed bill last year.)

D. CHANGES IN EXEMPTIONS

The committee bill makes the following changes in the exemptions provisions of the present act:

1. *Seamen*.—The committee bill covers for minimum wage but not for overtime seamen on American-flag vessels. (Same as Senate-passed bill last year.)

2. *Telephone operators*.—The committee bill covers telephone operators other than those employed by an independently owned telephone company which has not more than 750 telephones. (Same as Senate-passed bill last year.)

3. *Seafood processing*.—The committee bill covers for minimum wage but not for overtime employees engaged in onshore processing of seafood (seafood canners are treated in this way in the existing law). (Same as Senate-passed bill last year.)

4. *Processing and canning of fruits and vegetables*—(a) *Overtime exemptions*.—The committee bill reduces the 28-week overtime exemption for the processing and canning of fruits and vegetables to 20 weeks each year, 10 of which are completely exempt from overtime and the other 10 weeks limited to 12 hours a day and 56 hours a week. (The Senate-passed bill last year did not change this exemption as contained in the present law.)

(b) *Study of agricultural exemptions*.—The Secretary of Labor is directed to study the system of exemptions for the handling and processing of agricultural products under sections 7(c), 13(a)(10), and 7(b)(3), and submit next January a special report containing the results of such study, together with recommendations to simplify and remove any inequities. (The Senate-passed bill last year contained no such provision.)

5. *Broadcasters*.—The committee bill exempts from the overtime requirements announcers, news editors, and chief engineers in radio and television stations located in cities of 50,000 or less population outside of metropolitan areas. (Same as Senate-passed bill last year.)

6. *Bulk petroleum dealers*.—The committee bill exempts from overtime employees of independently owned bulk petroleum enterprises which have not more than \$1 million a year in gross annual sales exclusive of excise taxes. (The Senate-passed bill last year exempted such distributors from overtime regardless of the size of the enterprise.)

7. *Drivers and driver's helpers*.—The committee bill exempts from overtime local delivery drivers and driver's helpers paid on a trip rate plan found by the Secretary to have the purpose and effect of reducing hours worked to accord with the standard under the act. (Similar to Senate-passed bill last year.)

E. FOREIGN TRADE

The Secretary is authorized to study the effects on employment in industries under act of imports and exports.

F. PUERTO RICO

The minimum wage rates in Puerto Rico for presently covered employees, established through tripartite industry committees, are increased by the same percentage as the mainland minimum (15 percent within 60 days after the effective date of the amendments or 1 year from the effective date of the most recent wage order, whichever is later; and 10 percent 2 years after the 15-percent rate goes into effect). However, any industry in Puerto Rico claiming that the increases will substantially curtail employment is given the right to petition the Secretary for appointment of an industry committee to determine the rates for such industry in lieu of the statutory increases. (Same as Senate-passed bill last year.)

G. EFFECTIVE DATE

The 1961 Amendments become effective upon the expiration of 120 days after enactment, and the Secretary is given authority to promulgate necessary rules, regulations, or orders on and after the date of enactment.

PART IV. COMMENTS ON PRINCIPAL PROVISIONS

A. MINIMUM WAGE FOR PRESENTLY COVERED WORKERS

The minimum wage for the 23.9 million workers who are now protected by the \$1 rate is increased by the bill to \$1.25 an hour in 2 steps. The rate will be \$1.15 beginning 4 months after the date of enactment, and will go to \$1.25 2 years later. In recommending this moderate schedule of increases, the committee has considered the current economic situation and such factors as: (1) Trends in the relationship of the minimum wage level to average hourly earnings in manufacturing; (2) changes in the cost of living and in productivity since the enactment of the 1956 increase to \$1 an hour; (3) the annual income required to maintain a minimum standard of living; (4) the impact of the proposed minimum rates as compared with the impact of the 1956 increase; and (5) the impact on employment, on prices and on foreign competition.

(1) *Relation of the minimum wage to the level of earnings in manufacturing*

The first minimum wage goal established by the Fair Labor Standards Act, 40 cents an hour, was equal to about two-thirds of average hourly earnings of production workers in manufacturing in June 1938, when the original act was enacted. This goal was to be reached as rapidly as economically feasible through industry committee action within a period of 7 years from the effective date of the act. The 40-cent rate was required by statute after the end of this period. On the effective date of the original act, October 1938, a rate of 25 cents was established and the statute provided for a 30-cent rate a year later, in October 1939.

The increase in the minimum to 75 cents, enacted in October 1949, and the succeeding increase to \$1, enacted in August 1955, each set the minimum rate at somewhat more than half of the average hourly factory earnings.

Increases in earnings since 1955 for the average factory worker means that the minimum rate is now only 43 percent of the average hourly earning figure, \$2.32. An increase in the rate to \$1.25 will do no more than restore the relationship to average earnings of the 75-cent rate and the \$1 rate, when they were enacted.

(2) Changes in the cost of living and in productivity

During the nearly 6 years since the \$1 minimum wage was enacted, the earnings position of most workers has improved markedly. In many industries, including both manufacturing and nonmanufacturing groups, average earnings increased by 25 percent or more. The increases in the earnings of most factory workers have been large enough to both offset the increase in the cost of living and to provide the average worker with a share of the benefits of increased productivity.

From the last adjustment to January 1961, the Consumer Price Index rose by 11 percent. Real product per man-hour in the private sector of the economy rose roughly 13 percent during the period 1956 through 1960. A minimum wage of \$1.25 an hour, if made effective immediately, would provide low-paid workers the same real wage as did the \$1 minimum in 1956, plus a proportionate share of the greater output of goods and services made possible through increased productivity. To provide the original purchasing power of the \$1 minimum would require a rate of \$1.11.

If \$1.11 is multiplied by 1.13 to allow for the gains in productivity, a rate of \$1.254 is obtained. Since it is expected that there will be a further increase in productivity by the time the \$1.25 rate becomes effective, the schedule of rates provided by the bill will fall somewhat short of the objective of correcting the \$1 rate for changes in prices and in productivity.

The above factors are sufficient justification for increasing the present minimum wage in accordance with the committee's recommendations. It should be noted that these same factors were used as the basis for establishing the level of the minimum wage in 1949 at 75 cents an hour and in 1955 at \$1 an hour. And these same factors were specifically singled out by the Congress for the Secretary to consider in evaluating the statutory minimum wage level and in making recommendations with respect to minimum wage legislation. Thus, section 4(d) of the act states in part as follows:

In making such evaluation and appraisal, the Secretary shall take into consideration any changes which may have occurred in the cost of living and in the productivity and the level of wages in manufacturing, the ability of employers to absorb wages increases, and such other factors as he may deem pertinent.

But reliance need not be placed on these factors alone. Further justification for the increases the committee recommends can be found in a comparison of the proposed minimum wage with estimated budgets needed at the present time to provide the "standard of living

necessary for health, efficiency, and general well-being of workers," which is the objective sought by the act.

(3) *Annual income required to maintain a minimum standard of living*

The objective of the act is as rapidly as practicable to eliminate, in industries engaged in commerce or in the production of goods for commerce, "labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers." An indication of the level at which the minimum wage would have to be set to reach this objective is provided by the estimates of the cost of budgets which have been developed by the Bureau of Labor Statistics and by State agencies.

The Bureau of Labor Statistics has developed a list of goods and services intended to reflect a "modest but adequate" level of living for a family consisting of an employed husband, a wife not employed outside the home, and two children. This list was designed "to estimate the dollar amount required to maintain such a family at a level of adequate living, according to prevailing standards of what is needed for health, efficiency, and nurture of children * * *." Estimates of the annual cost of this budget were developed by the Bureau of Labor Statistics for each of 20 large cities as of autumn 1959. The cost varies from a high of \$6,567 in Chicago to a low of \$5,370 in Houston (table 1).

TABLE 1.—*Annual costs of the city worker's family budget,¹ 20 large cities, autumn 1959*

City and suburbs:	Total budget	City and suburbs—Continued	Total budget
Atlanta.....	\$5, 642	Minneapolis.....	\$6, 181
Baltimore.....	5, 718	New York.....	5, 970
Boston.....	6, 317	Philadelphia.....	5, 898
Chicago.....	6, 567	Pittsburgh.....	6, 199
Cincinnati.....	6, 100	Portland, Oreg.....	6, 222
Cleveland.....	6, 199	St. Louis.....	6, 266
Detroit.....	6, 072	San Francisco.....	6, 304
Houston.....	5, 370	Scranton.....	5, 693
Kansas City.....	5, 964	Seattle.....	6, 562
Los Angeles.....	6, 285	Washington, D.C.....	6, 147

¹ For a family of 4, including an employed husband of 38, wife, and 8-year-old girl and a 13-year-old boy.
Source: Bureau of Labor Statistics.

Obviously, the proposed \$1.25 rate falls far short of the amount required to cover this budget. If an employee works 2,000 hours a year, he would have to be paid \$2.69 an hour in order to obtain the amount of income required to meet the cost of this budget in Houston. A number of States have developed "minimum adequate" budgets for a self-supporting single woman. Estimates of the current cost of these budgets vary from a high of \$3,587 for New Jersey to a low of \$2,181 for Massachusetts. The variations from State to State, as shown in table 2, reflect for the most part differences in the nature of the budgets rather than differences in costs of living (table 2).

TABLE 2.—*State estimates of annual earnings necessary to support a single woman without dependents*

State	Date surveyed	Annual budget	Changes in cost of living between survey date and December 1960 (percent) ¹	Annual cost, December 1960 ²
Arizona.....	February 1954.....	\$2,313	+10.9	³ \$2,565
California.....	March 1960.....	2,647		
Colorado.....	September 1955.....	2,176	+11.0	2,415
Connecticut.....	March 1949.....	1,867	+25.1	2,336
District of Columbia.....	September 1959.....	2,364	+1.8	2,407
Kentucky.....	February 1949.....	1,992	+25.5	2,500
Maine.....	December 1950.....	2,236	+19.3	2,668
Massachusetts.....	February 1954.....	1,967	+10.9	2,181
Minnesota.....	October 1960.....	2,495	+2	2,500
New Jersey.....	September 1958.....	3,479	+3.1	3,587
New York City.....	September 1956.....	2,664	+8.9	2,901
Oregon.....	February 1959.....	2,856		
Pennsylvania.....	May 1957.....	2,799	+6.6	2,984
Utah.....	October 1950.....	2,230	+21.4	2,707
Washington.....	May 1952.....	2,664	+12.8	3,005
Average budget.....				2,665

¹ Increase in national consumer price index.² Estimated by applying rise in national consumer price index to amount of budget on survey date.³ Median budget.

NOTE.—The assumption made by the budgets (for example, whether the single woman lives at home with a family or lives in a boardinghouse) vary by State and account for much of the differences in budget totals.

Source: Supplementary material submitted by Stanley H. Ruttenberg of the AFL-CIO, on Mar. 2, 1961, at the Senate hearings, p. 216, except figures from California and Oregon which are from State reports.

A rate of \$1.15 would yield an annual income, to an employee who works 2,000 hours, of \$2,300—a figure lower than the cost of a minimum adequate budget as estimated by all but one of the States for which budgets are available. A rate of \$1.25 would yield an income of only \$2,500, less than the estimated cost of all but four of the State budgets.

A review of various budgets leads to the incontrovertible conclusion that many workers, including those now covered by the \$1 minimum under the act, live in want of the bare necessities of life. Such workers and their families must therefore be provided with public relief and private charity to supplement their meager earnings. This is true not only in those sections of our country traditionally associated with low wage standards; it is true also in our greatest cities and our most prosperous States.

In a 1960 report to the City Council of the city of New York, it is stated that—

at the present time 44.3 percent of the families to whom relief in the city of New York is extended include wage earners whose incomes are being supplemented by the Department of Welfare.

These public relief payments represent a subsidy to the low wage employer by the taxpayer and by the whole community. The burden falls on the community and its relief rolls and the community also bears the incalculable cost of the waste of human resources, the loss of human dignity, and the intolerable social and economic evils that prey upon the underpaid worker, upon his family, his children and upon his neighborhood.

Even if an employee received \$1.25 an hour and worked a full 40-hour week every week throughout the year, his income of \$50 a week would still be below the barest budgets set for relief clients by many States and substantially below the statutory objective of maintaining "a minimum standard of living necessary for health, efficiency, and general well-being."

For example, the Social Security Act provides for Federal grants-in-aid to States for assistance to the needy aged, the blind, the disabled and the children deprived of parental support and care. The level of living that is recognized in determining an individual's eligibility for assistance under this program is defined by each State. In July 1958, the States published such minimum subsistence budgets for a family of an incapacitated father and mother and a boy of 11 and a girl of 7. This minimum subsistence budget was higher, or within 10 percent of the full year's wages of the worker paid at \$1.25 for 40 hours in every week of the year, in 20 States of our Union.

The barest minimum budget for health and safety which is used by the New York City Department of Welfare in determining eligibility for free school lunch is \$52 a week for a family of two, \$62 a week for a family of three, and \$74 a week for a family of four. All of these budgets are in excess of a \$1.25 minimum wage that a worker would receive for a full workweek of 40 hours.

As shown in the table above, even for a budget for a single woman, in a number of States, a \$1.25 wage is insufficient to provide the minimum essentials for her maintenance assuming that she received not less than \$1.25 an hour for 40 hours a week in every week of the year. In a number of other States, she would just about make it. Needless to say, for a family breadwinner a \$1.25 minimum at the present time would still be below a subsistence wage.

The committee's recommendation for an increase in the minimum wage is prompted by the knowledge that 3 million Americans in industries protected by the act are earning less than these minimum subsistence budgets. The committee's action in recommending an extension of the coverage of the act is prompted by the knowledge that the situation is even worse among the over 20 million American workers who have no protection at all under the Fair Labor Standards Act. Thus, more than half of the workers in the retail trades earned less than \$1.25 an hour in October 1956; more than 1 out of 4 earned less than a dollar an hour; and more than 1 out of 10 earned less than 75 cents an hour.

These wages do not provide even minimum food, clothing, housing and medical care. When wages reach the depths of 75 cents an hour and even 50 cents an hour, as brought out in testimony before the committee, the entire community is paying too high a price for cheap labor. The first victims are those who through dire necessity must accept such pitiful wages. But ultimately, the community must pay the price through higher welfare services, and the costs associated with slum conditions and the evils attendant upon them.

(4) *Impact of the proposed minimum rates compared with that of the 1956 increase to \$1 an hour*

In a report submitted to the committee, the Department of Labor concluded that the proposed \$1.15 rate would have a smaller direct wage impact than the \$1 rate in 1956, and that even an immediate

increase to \$1.25 would require an increase in factory wage costs no greater than did the \$1 rate. Following are pertinent excerpts from the Department's report:¹

When the \$1 minimum wage was enacted in August 1955, the Congress had before it estimates of the direct wage impact of a \$1 minimum rate in manufacturing. These estimates can be compared with the current direct wage impact of the minimum rates provided by the bill.

In 1955 it was estimated that of the 15,500,000 factory workers, 700,000 or 4.6 percent were paid at the minimum wage level [of 75 cents an hour] or within 10 cents of that rate (under 85 cents).

It is now estimated that of the 14,238,000 covered factory workers, 812,000 or 5.7 percent are paid \$1 an hour or within 10 cents of that figure (under \$1.10).

In 1955, it was estimated that 1,600,000 factory workers, or 10.2 percent of the total, were paid less than \$1 an hour. It is now estimated that 8.2 percent of all presently covered factory workers are paid less than \$1.15, 10.3 percent are paid less than \$1.20, and 12.7 percent are paid less than \$1.25.

In 1955 it was estimated that to increase to \$1 an hour the wages of all factory workers who were paid less than that amount would require an increase in manufacturing wage costs of 0.8 percent. It is now estimated that to increase the wages of presently protected factory workers who are paid less than \$1.15 an hour to that amount would require an increase in wage costs of 0.4 percent. The proportion for \$1.20 is 0.6 percent and for \$1.25, 0.8 percent.

It is believed that a satisfactory adjustment to the \$1 rate was made. This conclusion is supported by the Department's 3-year program of studies of the effects of the increase in the minimum wage to \$1.

Since an increase in the minimum wage to \$1.15 would have less of an impact than the 1956 increase to \$1, there can be little question as to the ability of employers of low-paid workers to adjust now to a minimum wage of \$1.15. A rate of \$1.25 would require raising the wages of a larger proportion of factory workers than did the 1956 increase to \$1. However, the percentage increase in factory wage costs which would be required to raise to \$1.25 the earnings of workers who are paid less than that amount would be the same as the percentage increase required by the \$1 rate.

The Department concluded that—

since employers would not, under the bill (S. 1457), be required to raise wages to \$1.25 before 2 years, it is not expected that enactment of the bill would have any significant adverse effect on employment of workers now protected by the act.

The bill provides, for workers now protected by the \$1 rate, a rate of \$1.15 beginning 4 months after the date of enactment, and a rate

¹ Supplement to statement in explanation of the Fair Labor Standards Amendments of 1961, submitted by the Department of Labor at the hearings before the Subcommittee on Labor of the Committee on Labor and Public Welfare, 87th Cong., 1st sess., p. 16.

of \$1.25 beginning 28 months after the date of enactment. The \$1.15 rate would, therefore, apply for a 2-year period commencing 4 months after the date of enactment.

The \$1.25 rate, even if imposed immediately, would have no greater cost impact than did the increase in the minimum from 75 cents to \$1, to which a satisfactory adjustment was made. Therefore, there should be no question as to the ability of employers to make satisfactory adjustment to the \$1.25 rate over a period of 28 months.

(5) *Effects on employment, prices, and foreign competition*

The committee has given exhaustive consideration to the effects of the proposed changes in the minimum wage on employment, prices, and foreign competition and has concluded that the expressed fears by opponents of such legislation are not borne out by the experience under the Fair Labor Standards Act, or by the experience with minimum wages under State laws. Exhaustive studies indicate that any adverse effects which the minimum wage has had were at most of a very limited nature and were far outweighed by the benefits of the minimum wage law.

(a) *Effects on employment.*—A special section in the record of the hearings held this year by the Senate Subcommittee on Labor, on the amendments to the act, is devoted to this question. (See app. B, beginning on p. 695 of the hearings record.) This material and others show the following:

(i) The first studies of the economic effects of the Fair Labor Standards Act were summarized by the Bureau of Labor Statistics in 1942. The following conclusion was drawn from these studies:

“In none of these four industries (seamless hosiery, cotton, textiles, work clothing, and dress shirts) is there evidence that the general level of employment was affected materially by the introduction of the 32.5-cent standard. Notably in the case of seamless hosiery, there is evidence of some transfer of employment from relatively low-wage to relatively high-wage establishments.”

(ii) When the minimum wage was increased from 40 cents to 75 cents an hour, effective in January 1950, the Department of Labor made a study of the economic effects of the changes in five low-wage industries. The Department concluded that in three of the industries there were no employment declines attributable to the higher minimum, and that the decline of 4 and 2 percent in the other two industries might have been related to other factors.

(iii) The Department of Labor made more extensive studies of the economic effects of the increase in the minimum wage from 75 cents to \$1 an hour. In one phase of these studies, the Department attempted to follow up on all situations in which the minimum wage was alleged to have adverse effects on employment, including the closing down of plants. These case studies disclosed layoffs of only 1,800 workers who might have been discharged because of the minimum wage.

The Department also analyzed trends in employment and unemployment over the period of adjustment to the \$1, and reported as follows:

"Total nonagricultural employment was generally on the uptrend between the time of enactment of the \$1 minimum wage and the first part of 1957, reflecting the general economic expansion in the economy during this period.

"Unemployment, nationwide, did not increase over the period of immediate adjustment to the \$1 minimum wage. An estimated 3 million persons were unemployed in April 1955, 2.2 million in August 1955, 2.6 million in April 1956, and 2.2 million in August 1956. Thus, the effects of the minimum wage on unemployment were not sufficiently large to be discernible in overall estimates of unemployment."

Special surveys were made of employment before and after the effective date of the \$1 minimum wage in: (a) 15 selected low-wage industries in which the minimum had a particularly heavy impact; (b) selected segments of 12 of these low-wage industries where the impact of the \$1 minimum was the heaviest (the Secretary noted that these 12 industry segments employed about 400,000 workers, of whom 240,000, or 60 percent, were paid less than \$1 an hour before the minimum went into effect); (c) 6 low-wage communities in which large numbers of workers had to be given wage increases as a result of the increase in the minimum wage to \$1 an hour.

These studies have been widely commented upon and there appears to be some confusion as to the significance of the employment changes which were found to have occurred between the period prior to the enactment of the \$1 minimum and thereafter.

These facts are clear: That in the selected 12-industry segments which were most heavily affected, the data gathered by the Department's Bureau of Labor Statistics showed a decline in employment of 4 percent during the first survey period following the enactment of the \$1 minimum and a decline of 9 percent in the second survey period as compared with the employment prior to the enactment of the minimum-wage increase.

No one has suggested that these declines in employment were attributable entirely to the \$1 minimum wage. Thus Secretary Mitchell in his report to the Congress (submitted in accordance with the requirements of sec. 4(d) of the Fair Labor Standards Act) pointed out that "there were other economic influences on a number of the industries in question which were in part responsible for changes in levels of employment." (P. 8 of pt. II of Secretary's report for 1959.)

The following observations on the Department's studies appear desirable in order to evaluate the employment declines shown in the studies and to assess properly the effects of the \$1 minimum on these declines:

— The employment in the 15 low-wage industries taken as a whole remained virtually unchanged during the impact period of the dollar minimum. In August 1955, before the

\$1 minimum went into effect, employment in these 15 low-wage industries was 2,022,000 and a year later, in August 1956, the employment was virtually the same—2,018,000.

—The investigation of the low-wage segments of the 12 low-wage industries showed a variety of patterns. In some cases, employment after the \$1 minimum was higher than before; in other cases there were declines. On an overall basis there was a drop of about 14,600, or 4 percent in the first survey period following the increase in the minimum wage. The bulk of these declines, however, was accounted for by seasonal variations or by developments unrelated to the minimum wage such as competition from substitute products, inadequate demand, changed governmental agricultural policies, weather conditions, crop failures, and certain long-term technological innovations.

For example, hosiery employment normally declines seasonally between the months of February and April, the period chosen for the survey. Wood container employment declined between 1955 and 1956, partly because of adverse weather conditions which affected the fruit and vegetable industry and partly because of the historical decline in this industry due to the popularization of other types of packaging. Marketing allotments restricting the quantity of raw sugar that individual mills could process affected in part the employment during the 1956 grinding season of this industry. On the other hand, tobacco stemming and redrying showed an increase in the employment. In only a few isolated cases were the negative trends in employment attributed by the Department of Labor studies to the minimum wage.

—The data also show that employment in the second survey period in the same low-wage segments of the 12 low-wage industries declined by a somewhat larger number—36,671, or 9 percent—as compared with the predollar period. Some of these declines in employment may be attributed to the onset of the 1958 recession. The other factors enumerated above were also operative.

For example, tobacco stemming and redrying activities were curtailed by a 20-percent cutback in acreage allotments under the soil bank program. Southern sawmills suffered from a long-term decline due to competition from other materials, lesser use of lumber in residential buildings. The work-shirt industry also showed a long-term decline completely unrelated to the \$1 minimum which was primarily due to the growing popularity of sport and T shirts as work apparel and the conversion of some existing work-shirt plants to the production of the substitute apparel. Although these plants which converted did not go out of business, their statistical reclassification contributed to the decline in employment shown for the work-shirt industry. Florida citrus fruit processing continued to show gains of employment between the 1956 and 1957 seasons and exceeded the employment in 1955 before the \$1 minimum. A mild drop in cigar employment by comparison with the

predollar period in the Southeast was caused by the continual introduction of equipment for the use of homogenized binder, a development that was initiated a number of years earlier.

In relatively few cases, for the group as a whole, were negative effects attributed by the Department of Labor studies to the \$1 minimum wage.

— In the first few months following the enactment of the \$1 minimum, the field staff of the Wage and Hour and Public Contracts Divisions and local officials of State employment security offices were asked to watch for and report on situations in which the minimum wage was alleged to have adverse effects on employment, including the closing down of plants. As the report prepared by the Divisions states: "Visits were made to all firms which could be identified, and plant owners or management representatives were interviewed to determine whether employees had been discharged, and if so, the apparent reasons for discharges.

"The most significant result of this study was the small number of reports received. While this is not a measure of impact, it helps to put into proper perspective isolated reports that might otherwise lead to unwarranted generalizations. Only about 500 newspaper accounts, letters, and oral statements alleging adverse effects were noted, and in only about 150 cases did there seem to be some reason for believing that the minimum wage had adversely affected employment. (About 100 of the reports were not followed up because the names of the firms involved were not available to the Divisions.) These 150 plants employed about 12,000 workers prior to the layoffs and indications were that about 1,800 workers may have been discharged as a result of the minimum wage. There is no way of determining what proportion of all business closings or employment reductions which resulted from the minimum wage increase are reflected in these reports" ("Studies of the Economic Effects of the \$1 Minimum Wage," interim report, 1957. p. 6).

— The studies of the low-wage communities demonstrate that the \$1 minimum did not prevent employment growth between February 1956 (before the \$1 minimum) and June 1959. Employment in the six communities studied increased substantially, fully 20 percent in the industries which were subject to the act and 14 percent in the industries which were not covered by the act. This significant increase in employment is particularly noteworthy when compared to the national increase of employment during the same period, which was only 2 percent.

A careful analysis of the detailed data collected by the Labor Department's Bureau of Labor Statistics, which was the basis for the Secretary's reports, indicates that while there might have been some minor adverse effects of the \$1 minimum wage on employment in some selected low-wage industry segments, the overall effect in these industries and in the communities of maximum impact was not adverse and, indeed, may have contributed to the general stability and improvement in employment levels.

(iv) Included in appendix B of the hearings record is a very significant and pertinent study of employment data, from Government sources, from 13 States in which a \$1 minimum wage has been applied to retail trade. The data shows that in not even one State is there any evidence that the requirement of a minimum wage has led to a decline in retail employment ("Hearings Before the Subcommittee on Labor of the Committee on Labor and Public Welfare on Amendments to the Fair Labor Standards Act, 1961," pp. 728-739).

(b) *Effects on prices*

The following excerpts from the Labor Department studies demonstrate that changes in the minimum wage had no discernible effect on prices even in the low wage industries where the impact of an increase in the minimum was most significant. The excerpts are from "Secretary Mitchell's 4(d) Report for 1960":

EFFECTS ON PRICES

Although the wholesale price index began rising in mid-1955 and continued to rise for about 3 years thereafter, it appears that the minimum wage increase did not contribute significantly to the price rise.

Changes in wholesale prices of the products of low wage industries were less, on the average, than the change in the wholesale price index between January 1956 and January 1957. While the index for all commodities increased 4.5 percent during the year, the average increase for the products of low wage industries included in the index was 2.6 percent. During the longer run period, January 1956 to January 1960, there was virtually no increase in wholesale prices of products of the low wage industries while the increase in the index for all commodities was 6.6 percent. * * *

These estimates are based on price indexes for the 145 primary commodities of 15 low wage industries for which price data were obtained by the Bureau of Labor Statistics. The 15 industries are those surveyed for the Department's program of minimum wage studies in 1959.

Of more importance than the relatively small average increase in the prices of products of the low wage industries is the fact that, during the period of a general upward price movement, the prices of many of the products of these industries did not change or decreased. The magnitude of price changes between January 1956 and January 1957 for these 145 commodities is shown in the following distribution:

	Number of commod- ities	Percent of total
Price increase of—		
5 percent or more.....	26	18
Over 0 and under 5 percent.....	62	43
No change.....	24	17
Price decrease of—		
Over 0 and under 5 percent.....	21	14
5 percent or more.....	12	8
Total.....	145	100

There are two reasons for expecting that a minimum wage increase will not result in a general pattern of increases in the prices of products of low wage industries. First, the Department's studies show that many employees of low wage industries are prodded by a minimum wage change to increase productivity, and thus to adjust to higher costs per hour of labor without increasing costs per unit of output. Second, much of the impact of a minimum wage change is in industries in which low wage firms compete with firms which pay all employees substantially more than the minimum rate, so that prices tend not to rise by a significant amount even though wage costs of the low wage firms are increased. The fact that prices in the low wage industries showed negligible change over the period 1956-60 as a whole, while the all-commodity index rose 6.6 percent, suggests that adjustment to a minimum wage increase may be accomplished through methods other than price increases. For example, increases in productivity—which in some cases may be accompanied by declines in employment—may have been used by individual plants to adjust to the minimum wage ("Secretary of Labor's 4(d) Report of 1960," pp. 20-22).

(c) *Effects on foreign competition*

An analysis of the available data does not support the view that a moderate increase in the minimum wage will have a substantial adverse effect on the ability of American producers to compete with foreign producers in either the domestic or foreign markets.

Most U.S. firms which compete with foreign producers would not be directly affected by an increase in the minimum wage, since they pay wages far in excess of the minimum rate. This is indicated by a detailed analysis of the types of commodities which are imported into the United States, and of those which are exported from the United States to other countries. This analysis disclosed that more than four-fifths of imported and exported commodities are produced in the United States by industries which would not be significantly affected by a modest increase in the minimum wage.

The position of low wage firms competitive with foreign producers may tend to be adversely affected if a minimum wage change were to result in higher prices. However, as is noted above, the Department of Labor's studies of the effect of minimum wage increases indicate that they did not result in any general pattern of increases in the prices of products of low wage industries.

In summary, it may be expected that a moderate increase in the minimum wage will not have extensive adverse effects on the ability of U.S. firms to compete with foreign producers. This conclusion is consistent with trends in the value of imports and exports during the period of adjustment to the increase in the minimum wage from 75 cents to \$1 an hour, effective in March 1956. During that period, both imports and exports increased. The value of merchandise imports increased from \$11.4 billion in calendar year 1955 to \$13 billion in 1957. The value of merchandise exports in 1955 was \$14.3 billion, and in 1957, \$19.5 billion.

Similar trends are reflected in the data on imports of fabrics, apparel, and related manufactures, a substantial proportion of which

are produced by low wage firms. The value of imports of these commodities was \$397 million in 1955, and \$472 million in 1957. The value of exports of these commodities was \$477 million in 1955 and \$497 million in 1957.

In the first half of 1960, the annual rate of imports of fabrics, apparel, and related manufactures was \$758 million, and of exports \$480 million. During the second half of 1960, imports of these commodities declined slightly, to an annual rate of \$718 million. To what extent the trade position of these commodities would become less favorable as a result of a minimum wage increase cannot be determined. However, it may be noted that a substantial part of the commodities imported are produced in Japan, Hong Kong, and other low wage areas by workers who are paid only 10 to 25 cents an hour. American producers could not compete on even terms with producers of these low wage areas even if the minimum wage were less than \$1 an hour.

In his message to the Congress proposing a program to restore momentum to the American economy, dated February 2, 1961, President Kennedy stated that an increase in the minimum wage and an expansion of coverage—

can actually increase productivity and hold down unit costs, with no adverse effects on our competition in world markets and our balance of payments. More than four-fifths of those commodities affected by either export or import trends are produced by industries which would not be significantly affected by a moderate increase in the minimum wage. The proposed new coverage is basically in retail trade and services, which are not affected by shifts in international trade.

Moreover, experience with previous minimum wage increases indicates little effect on prices. In the 4 years following the 1956 increase in the minimum wage, the index of all wholesale prices increased 6.6 percent, whereas the prices charged for commodities produced in low wage industries showed negligible change.

The committee is in agreement with this statement; nevertheless, since the question has been raised regarding the effects of foreign competition on industries covered by the act, the committee has added a specific provision to the bill in order to provide the information necessary for evaluating this matter. The bill contains a new provision, proposed section 4(e) of the act, which directs the Secretary of Labor to make investigations whenever he has reason to believe that in any industry under the act the competition of foreign producers has resulted or is likely to result in increased unemployment. If he finds that increased unemployment has in fact resulted or is likely to result from such competition, he will make a report of his findings to the President and to the Congress, including information on increases in employment from additional exports where pertinent.

B. MINIMUM WAGES AND OVERTIME FOR NEWLY COVERED EMPLOYEES

The minimum wage and overtime requirements for newly covered employees are set by the committee bill as follows:

	Minimum wage	Overtime after—
1st year after enactment	\$1.00	No overtime requirements.
2d year after enactment	1.05	44 hours a week.
3d year after enactment	1.15	42 hours a week.
Thereafter	1.25	40 hours a week.

Of the 4,086,000 newly covered workers, 728,000 are paid less than \$1 an hour. These employees are distributed by industry as follows:

<i>Industry</i>	<i>Under \$1</i>
Retail trade	583,000
Miscellaneous services	6,000
Laundries and cleaning plants	57,000
Seafood processing	10,000
Transit systems	5,000
Small telephone exchanges	5,000
Seamen	
Local retailing	2,000
Other industries	60,000

As this table shows the \$1 minimum wage, that will go into effect for the first year after the effective date of the 1961 amendments, has its principal effect in the large retail enterprises covered by the committee bill.

1. *Wages.*—Because wages in the retail industry are relatively low and the working hours are relatively long, the bill proposes to cushion the effect in these industries by a gradual application of minimum wage and maximum hours standards. Under the bill, the minimum wage for newly covered employees will be \$1 an hour during the first year after the effective date of the 1960 amendments and no overtime requirements will apply to such employees during that year. Beginning the second year after the effective date, the rate will be \$1.05 an hour and overtime rates will be required for work in excess of 44 hours a week. During the third such year, the minimum rate will be \$1.15 an hour and overtime will be required after 42 hours a week. Not until the fourth year, in 1964, will the statutory level of \$1.25 an hour and the 40-hour week be reached for such employees.

This gradual approach should permit the industry to adjust without substantial impact on labor costs or prices and without curtailing employment or earnings.

Of the 2.5 million employees in the retail trades who will be covered by the bill, 583,000 are receiving less than \$1 an hour. It is estimated that, to bring these workers up to the dollar minimum, will require an increase of 2.1 percent in the annual wage bill of all newly covered employees in this industry. It is the committee's belief that this increase can be absorbed by these large enterprises and chains without any increase in prices. But even if all the direct costs of this increase were passed on in higher prices, it would only come to about two-tenths of a cent on every dollar of sales.

It is recognized that this estimate is based on average figures and that the impact will vary in different trades. The labor cost ratio varies in different lines of business in the retail trades from 7 percent for food stores to 17 percent for department stores. But even in the latter case, however, the direct impact of the increase to \$1 an hour would on the average amount to less than one-half of a cent on every dollar of sales.

On the other hand, the increase in the minimum to a dollar an hour will mean an average increase in wages for approximately 600,000 workers who will provide a market for the goods of these as well as other retail and service establishments. The small cost, even if all the direct increases are passed on in higher prices, appears to be a good investment in the well-being of the American worker and indeed in the well-being of the entire economy.

2. *Hours.*—As pointed out above, the overtime requirements for retailing will not be imposed during the first year after the enactment of the bill. This is done in consideration of the relatively long hours prevailing in this industry. The Department of Labor estimates that approximately one-fifth of the workers in retail trade work over 44 hours and more than one-fourth over 40 hours. However, it should be noted that the smaller stores, which are not affected by this bill, generally tend to work the longer hours and, because such stores employ a small number of employees, they cannot as readily as large establishments employ part-time help to reduce the number of working hours of individual employees. The large firms, however, have in many cases already demonstrated the ability to adjust to a shorter workweek. This is suggested by the extent to which the workweek in retail trade has already been reduced to 40 hours, and by the increase in use of part-time employment in the industry. In 1948, 14 percent of retail employees worked less than 30 hours, but by 1959 the proportion had increased to 20 percent.

The committee is also mindful of the fact that only large enterprises of the retail and service industries—those with an annual volume of sales of \$1 million or more—will be brought under the act. These enterprises have large financial resources and are in position to adjust to the act's requirements. Also, most of these large companies operate in both high- and low-wage areas, so that the impact of the minimum wage on a particular enterprise would be an average of the impact on the low-wage and the high-wage establishments.

C. CHANGES IN COVERAGE AND EXEMPTIONS

(A) INTRODUCTION

The committee bill extends the coverage of the Fair Labor Standards Act to approximately 4.1 million of the 20 million nonsupervisory workers in private industry who are presently outside the act's protection. These 4.1 million workers are distributed as follows:

- (1) 2.45 million employees in large retail and service enterprises.
- (2) 140,000 employees in large laundry and drycleaning enterprises.
- (3) 110,000 employees of interurban or metropolitan transit enterprises.
- (4) 33,000 employees engaged in seafood processing.
- (5) 30,000 switchboard operators.

- (6) 100,000 seamen on American vessels.
- (7) 1 million workers employed by enterprises engaged in construction or reconstruction.
- (8) 10,000 employees engaged in a local retailing capacity.
- (9) 86,000 employees of gasoline service establishments.
- (10) 100,000 employees of establishments of enterprises not included in the previously mentioned categories.

This extension of the act's coverage would be accomplished without departing from the act's present basis of coverage: engagement in "commerce" or in the "production of goods for commerce." Employees individually engaged in such activities, unless specifically exempt, would continue to enjoy the act's benefits. In addition, the bill would extend minimum wage protection for the first time to employees of certain large enterprises engaged in commerce or in the production of goods for commerce. These newly covered enterprises, employment in which will be discussed later in more detail, are divided into six specified categories in which employees are engaged in commerce or the production of goods for commerce, including employees who handle, sell or otherwise work on goods that have been moved in or produced for commerce by any person. These are the same types of enterprises as were covered under last year's Senate-passed bill.

In general, if an enterprise comes within one of these six categories, all of its employees are covered under the bill regardless of their duties. However, there are express exclusions under which specified employees, establishments, and enterprises would be exempt from the act's minimum wage and overtime provisions, and still others would be exempt from the overtime provisions only. These are discussed in detail below.

1. Retail and retail service employees

(i) *New coverage.*—The committee bill would bring within the act's coverage approximately 2,452,000 employees of retail selling and servicing businesses. These workers are employed in enterprises which have an annual gross volume of sales of \$1 million or more (exclusive of excise taxes at the retail level which are separately stated) and which meet the specific interstate commerce requirements explained elsewhere in this report.

In addition, the bill contains a provision which avoids extending the new coverage language to any establishment which does not have annual sales of \$250,000 or more even if the establishment is part of a million-dollar enterprise.

Up to the present time coverage under the Fair Labor Standards Act has been based on whether or not an individual employee is engaged in commerce or in the production of goods for commerce and, if he is, whether or not he is specifically exempted. Under this coverage most employees of manufacturing, transportation, and communications firms are covered since they have been held to be engaged in commerce or in the production of goods for commerce. All but 3 percent of the employees in retail trade, however, are held to be either not covered or specifically exempt from the act.

The committee bill proposes to extend coverage to employees of retail or service enterprises engaged in commerce or in the production of goods for commerce that meet certain other tests, such as the vol-

ume-of-business test. Even if engaged in commerce, a retail or service enterprise would be covered only if it has purchased or received goods for resale that move or have moved across State lines which amount in total annual volume to \$250,000 or more. This provision on inflow volume applies to employees employed by retail or service enterprises (who are in the final stages of the flow of interstate commerce from the producer or manufacturer to the ultimate consumer) a principle essentially the same as that embodied in the phrase "production for commerce" as applied to employees of manufacturing concerns (who are the initial stage of the flow of interstate commerce). Under the inflow limitation on coverage contained in the committee bill, goods amounting to \$250,000 a year must be purchased or received for resale and have moved across State lines at some stage in the flow of commerce to the retailer.

In sum, coverage under the act at the present time is based on engagement in commerce or in the production of goods for commerce. In view of the specific exemption for retail and service establishments, however, the courts have not fully explored the actual bounds of this concept as applied in these fields. Under the bill the specific exemption for retail and service establishments is substantially reduced although it still excludes firms and establishments doing less than specific volumes of business, and still excludes enterprises that do not purchase or receive goods for resale which move or have moved across State lines amounting in total volume to \$250,000 or more.

As previously noted, the bill retains the existing criteria of engagement in "commerce" or in the "production of goods for commerce" as the basis of extending coverage in the retail area, rather than adopting the language of "affecting commerce" used in the bill proposed by the committee and subsequently passed by the Senate in 1960.

According to Bureau of Census reports, in 1958 there were 1.8 million retail establishments in our country. Since the bill covers only about 25,600 retail enterprises with 65,000 establishments, it is abundantly clear that the bill's extension of coverage is limited to a relatively small portion of the Nation's total number of retail establishments.

There has been an intimate relationship between the development of retail trade and the growth of the economy as a whole. The structure of the retail industry has undergone major modifications as the economy has developed into a highly specialized and integrated urban economy. While there remains a large number of small retail stores which are local in the traditional sense of the term, retailing today is no longer essentially local in nature. It has become a vital and indeed indispensable part of the interstate stream of commerce through which flows the huge volume of consumer goods produced, shipped, and distributed to meet the individual and family demands of our Nation's population. The efficiency with which the country's retail enterprises perform their function of getting these goods to consumers directly affects the vitality and growth of those segments of American industry which produce, handle, and transport through the arteries of interstate commerce from every corner of the land the commodities which supply our citizens in all the 50 States.

Just as the general store has long since disappeared as a symbol of retailing, the corner grocery store is quickly giving way to the super-

market. When the Fair Labor Standards Act was adopted in 1938, supermarkets accounted for less than a fifth of the total food retail sales; at present more than half of the dollar volume of food is sold by supermarkets. Employment figures also reveal the changed nature of retailing. Today more than half of the employees in food stores and over two-fifths of the employees in apparel and accessory stores are in enterprises with \$1 million or more in annual receipts.

The large mercantile establishments and national systems of chain-stores which this bill would make subject to the Federal wage-hour law bear little resemblance to the small retail businesses the original sponsors of the act sought to exclude. Their claim to be regarded as local retail merchants rests solely on the fact that they distribute and sell goods at retail, although they commonly buy at wholesale and operate in many States throughout the Nation.

Ample provision is made in the bill to insure that the original intent of the sponsors of the act to exclude the small local retail merchants such as the corner grocer, neighborhood drugstore, barbershop or beauty parlor is carried out. Not only must the enterprise have \$1 million in sales annually but, as noted elsewhere in the report, there are other tests to insure that the covered enterprises will be substantially engaged in interstate commerce.

(ii) *Exemptions applicable to retail and service establishments.*—At the present time the Fair Labor Standards Act exempts from its minimum wage and overtime provisions retail or service establishments more than 50 percent of whose annual dollar volume of sales is made within the State in which the establishment is located. A "retail or service establishment" is defined in section 13(a)(2) as "an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry." Related provisions in section 13(a) (4) and (13) prescribe additional conditions for exemption of employees in retail or service establishments making or processing goods they sell and operating contract telegraph agencies.

In order to make the new enterprise coverage effective for 2,452,000 retail sales and service employees included in the bill, it was necessary for the committee to make adjustments in these exemptions. The present coverage and exemption language of the act excludes from protection of the minimum wage and overtime provisions all but about 250,000 of the 7.5 million employees in the retail trade. The employees who do have this protection are employed principally in mail-order houses and in central offices and warehouses of chainstores.

(a) *Small stores in any covered retail enterprise.*—Under the committee bill the exemptions in the present act for retail and service establishments would no longer apply to such establishments if the particular establishment has annual sales of more than \$250,000 and is part of an enterprise having annual sales of more than \$1 million, except in those cases where the bill specifically provides for exemption. In enterprises whose gross annual sales are less than \$1 million, the present exemptions would continue in effect. In addition, if a particular establishment in an enterprise which has sales of over \$1 million annually does not itself have sales of over \$250,000 or more annually, the present exemptions would also be applicable to employees employed by that particular establishment.

The provision exempting employees of these small establishments in enterprises to be newly covered by the bill was not contained in the bill reported by this committee in 1960. However, during debate on the measure in 1960 a similar provision was offered as an amendment to the bill. It was subsequently adopted on the floor and incorporated in the bill as passed by the Senate last year. As brought out in the debate, a small establishment in a particular community might be at a disadvantage if other merchants in the area were exempt from the requirements of the act and it was covered by virtue of the fact that it was part of a covered enterprise. The committee has therefore incorporated this provision in its bill.

(b) *Hotels, motels, restaurants, and motion picture theaters.*—By specific provision in the bill, the present exemption for retail and service establishments would continue in effect for hotels, motels, restaurants, and motion picture theaters. The exemption applies even if such establishments are in enterprises having more than \$1 million in annual sales. However, the exemptions for hotels, motels, and restaurants would not extend to employees of such establishments engaged in laundering, cleaning, or repairing clothing or fabrics where such services are not performed exclusively for the employing establishment.

An exemption is also provided, without regard to annual sales volume of the enterprise, for employees of a retail or service establishment employed primarily in connection with the preparation or offering of food for human consumption on the premises or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs. Clauses (2) and (9) of section 13(a) also are intended to continue the exemption for independently owned and operated restaurants in industrial plants, office buildings, Government installations, hospitals, or colleges, such as were involved in *McComb v. Factory Stores* (81 F. Supp. 403 (1948)). This exemption would extend to all employees primarily engaged in the preparation or offering of food or beverages such as dishwashers, cashiers, busboys, etc.

(c) *Amusement and recreational establishments operating on a seasonal basis.*—A similar exemption, without regard to the annual sales volume of the enterprise, is provided for employees of amusement and recreational establishments operating on a seasonal basis. These establishments are typically those operated by concessionaires at amusement parks and beaches and are in operation for 6 months or less a year.

(d) *Hospitals, nursing homes, and schools for handicapped or gifted children.*—Exemptions from the new coverage provisions are also provided for hospitals, schools for physically or mentally handicapped or gifted children, and institutions primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises. The primary purpose in providing these exemptions is to avoid a situation in which some establishments engaged in these activities are covered while others are not. Nonprofit hospitals, nursing homes, and educational institutions are already excluded by virtue of the definition of "enterprise," which does not include eleemosynary, religious, or educational organizations not operated for profit.

All of these are complete exemptions from both the minimum wage and overtime provisions.

(e) *Executive or administrative employees in retail stores.*—The bill also provides that in the case of bona fide executive and administrative employees of retail or service establishments, the exemption provided by section 13(a)(1) shall not be so limited as to exclude an otherwise qualified employee from the exemption because of the number of hours in a workweek he devotes to nonexecutive and nonadministrative activities so long as the number of hours devoted to such non-exempt activities is less than 40 percent of his hours worked in the workweek.

In addition to the provisions previously noted which provide exemptions from both the minimum wage and overtime requirements of the act in the retail area, special provisions are added by the bill to exempt certain employees of retail and service establishments from the overtime requirements of the act.

(f) *Commissions.*—The bill adds a new section 7(h) to the act which would relieve retail or service establishments from paying overtime compensation to commission employees under certain conditions. These conditions are that the employee's regular rate of pay is not less than 1½ times the minimum hourly rate applicable to him under section 6 of the act and that he receives more than half his compensation from commissions on goods or services. Whether more than half his compensation is derived from commissions will be determined, under the proposed provision, by a representative period, not less than 1 month.

(g) *Automobile and farm implement dealers.*—An overtime exemption is also added for any employee of a retail or service establishment which is primarily engaged in the business of selling automobiles, trucks, or farm implements. This exemption is applicable irrespective of the annual dollar volume of the establishment.

(h) *Local retailing capacity.*—In addition to the above adjustments in exemptions, the bill would eliminate the exemption in section 13(a)(1) for employees employed in a "local retailing capacity." This is necessary to make effective the extension of protection to sales personnel of the retail or service establishments who would be covered under the proposed new section 3(s)(1). It would also result in extending minimum wage and overtime protection to about 10,000 employees of manufacturing, wholesale trade, and other nonretail establishments.

(i) *Student workers.*—The bill amends section 14 of the act to allow full-time students to be employed in retail stores at rates below the general statutory minimum. The Secretary, to the extent necessary to prevent curtailment of opportunities for employment, is authorized to issue regulations or orders providing for the employment of these students at such rates as he shall prescribe.

In order to qualify under this provision, the student must (1) be working in a retail or service establishment outside of school hours, (2) be a full-time student, and (3) not be employed in the type of employment ordinarily given to a full-time employee.

The purpose of this provision is to provide employment opportunities for students who desire to work part time outside of their school hours without displacement of adult workers.

2. *Employees of businesses laundering, cleaning, and repairing clothing or fabrics*

Section 3(s)(2) which would be added to the act by the bill would bring under the act employees in enterprises engaged in laundering, cleaning, or repairing clothing or fabrics which are engaged in commerce or in the production of goods for commerce and have gross annual sales of \$1 million or more (exclusive of excise taxes at the retail level). Of a total of 465,000 nonsupervisory workers in the industry, the bill would bring under the act about 140,000 employees employed by 1,300 establishments. The committee believes that this is a moderate, yet essential step in providing a measure of protection for laundry workers.

The bill also makes four changes in section 13(a)(3) of the act, which now provides a minimum wage and overtime exemption for employees of establishments engaged in laundering, cleaning, or repairing clothing or fabrics if the establishment's annual dollar volume of sales of such services is made (1) more than 50 percent within the State in which the establishment is located, and (2) more than 75 percent to customers not engaged in a mining, manufacturing, transportation, or communications business.

First, the bill removes from this exemption those establishments which are in an enterprise having an annual gross volume of sales of \$1 million or more, exclusive of excise taxes at the retail level.

Second, the bill would eliminate a source of competitive inequities between covered and exempt businesses by including "commercial" work in the category of sales which, if amounting to more than 25 percent of annual dollar volume, would remove the exemption for an establishment.

Third, it would eliminate other competitive inequities by excluding from this exemption, as well as the exemption in section 13(a)(2), any employee of a hotel, motel, or restaurant who is engaged in laundering, cleaning, or repairing clothing or fabrics where such services are not performed exclusively for the hotel, motel, or restaurant.

Fourth, the bill would remove from the exemption employees of establishments which have annual sales of \$250,000 or more and which are in "substantial competition in the same metropolitan area" with an establishment that derives less than 50 percent of its annual dollar volume from sales made within the State.

Whether the establishments are in "substantial competition" with one another will depend upon all of the facts; however, they will be considered to be in "substantial competition" where they both bid or seek to obtain the same business from the same customers within the same metropolitan area where such business would constitute a substantial part of their annual receipts.

3. *Employees of interurban and metropolitan transit enterprises*

Section 3(s)(3) of the bill would bring under the act those enterprises engaged in commerce or in the production of goods for commerce which are "engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier."

The bill, while deleting the exemption provided in section 13(a)(9) of the present act for employees of such businesses, would provide, in a new section 13(b)(7) of the act, an exemption from the overtime requirements. These changes in the act will provide minimum wage:

protection for an additional 110,000 employees and will, with the changes applicable to seamen, provide substantially uniform application of the act to all segments of the Nation's transportation network.

4. Employees of establishments having fragmented coverage, in enterprises not specially dealt with by the bill

In the new section 3(s)(4) which the bill proposes to add to the act, coverage would be provided for all employees of any establishment, not elsewhere referred to in section 3(s), which now has some employees who are and others who are not individually engaged in commerce, or in the production of goods for commerce, if the establishment is in an enterprise which has an annual gross volume of sales of not less than \$1 million. It is specifically provided that this paragraph has no application whatsoever to any enterprise or establishment referred to in any other paragraph of section 3(s).

The purpose of this provision is to eliminate fragmentation of coverage in the establishments of these large enterprises and prevent continuance of a situation in which some of the employees in such an establishment have the protection of the act while others who work side by side with them do not. This provision would extend, to employees and employers in large enterprises where present coverage provisions apply, the same uniformity of coverage that is provided by the bill for large enterprises in which the employees are excluded from present coverage.

This section would provide minimum wage and overtime protection under the act for approximately 100,000 additional employees in such enterprises as wholesale trade, finance, insurance, real estate, transportation, communications, and public utilities, and business, accounting, and similar services.

5. Employees engaged in construction or reconstruction

The new section 3(s)(5) of the act proposed by the committee bill would extend coverage to all employees of an enterprise engaged in the business of construction or reconstruction or both, which is engaged in commerce or in the production of goods for commerce and has an annual gross volume from its business of not less than \$350,000. It is estimated that this provision will afford minimum wage and overtime protection under the act to approximately 1 million additional employees.

As previously noted in the discussion of section 3(s)(4), under the present law employees working in the same enterprise may be treated differently so that while one employee is covered, another—working side by side—is not. The committee strongly believes that this provision, together with section 3(s)(4), will greatly ease the burden on employers, employees, and the courts, who have been compelled to determine coverage under the current provisions of the act on an employee-by-employee basis. It will provide the same concept of coverage—enterprises engaged in commerce or in the production of goods for commerce—for construction businesses as is provided in other categories of new coverage for other businesses.

The committee believes that difficulty could arise in applying the concepts of "establishment" and "sales," as contained in last year's Senate-passed bill, to the construction industry, which performs its work under contracts and has employees of its contractors at many different jobsites. The committee has deliberately refrained from

using these terms in section 3(s)(5). Under the bill it is clear that if a construction contractor is engaged in construction activities at a number of construction sites, all of these activities will be considered as being performed for the enterprise, and all of the employees will come under the act if the enterprise has an annual volume of business of \$350,000 or more.

6. Gasoline service stations

Section 3(s)(5) brings under the act any gasoline service station which has an annual gross volume of sales of \$250,000 or more. It should be noted that with respect to gasoline service establishments, the test applies to each separate establishment. This would be true whether the establishment is part of a chain operation or whether it is independently owned.

The provision in section 3(s)(5) dealing specifically with gasoline service "establishments" takes them out of the category of section 3(s)(1) which applies on an "enterprise" basis.

Employees of gasoline service stations or establishments that will be covered under the act for the first time will receive minimum wage rates on the same basis as retail and service enterprise employees referred to above. The provision in the new section 13(b)(8) will exempt any employee of a gasoline service station from the overtime requirements of the act.

Although the term "gasoline service establishment" is used in section 3(s)(5), and the term "gasoline service station" in section 13(b)(8), no difference in application is intended. A gasoline service station or establishment is one which is engaged primarily in selling gasoline and lubricating oils. It may also sell other merchandise or perform minor repair work as an incidental part of the business.

D. CHANGES IN EXEMPTIONS

The committee bill makes the following changes in the provisions of section 13 of the act providing exemptions from the minimum wage or overtime provisions, or both, for certain employees:

1. Seamen

The present act in section 13(a)(14) provides an exemption from its minimum wage and overtime provisions for all seamen. Under the bill all seamen will continue to be exempt from the overtime provisions. However, seamen on vessels documented or numbered under the laws of the United States will be covered by the minimum wage requirements.

Of the estimated 100,000 seamen on American vessels who will be brought under the minimum wage provisions by the bill, about 50,000 are employed on deep-sea vessels and the remainder are employed on inland waterways and on harbor craft.

Because of the unique working conditions of seamen, a special section dealing with calculation of their wages is included in the bill. This special provision, in a new section 6(b)(2) of the act, allows employers to calculate wages for purposes of the act on the basis of periods other than a workweek, in accordance with custom in the industry, as long as the wages equal the employee's applicable minimum hourly wage under the act. This section also provides that in calculating the hours worked by a seaman for the purpose of the act,

only the hours during which a seaman is actually on duty need be counted. Off-duty hours provided under the employment agreement or periods aboard ship when the employee is not on watch and not performing other work or standing by, at the direction of a superior officer, need not be counted as hours worked for purposes of the act.

2. Fishermen and employees handling and processing seafood

The bill would modify the minimum wage and overtime exemption in section 13(a)(5) of the act for employees engaged in fishing and in specified activities on aquatic products. The activities now enumerated in this section fall into two general groups—(1) those “offshore” activities which have to do with the procurement of seafood and other forms of aquatic life and which depend to a considerable degree on natural forces; (2) “onshore” activities which in general have to do with the movement of perishable aquatic products to a nonperishable state or to points of consumption.

The bill would amend the provisions of section 13(a)(5) to remove from this exemption those so-called onshore activities and leave the exemption applicable to “offshore” activities connected with the procurement of the aquatic products, including first processing, canning or packing at sea performed as an incident to fishing operations, as well as employment in loading and unloading such products for shipment when performed by any employee engaged in these procurement operations.

An estimated 33,000 persons who are employed in the activities removed from the section 13(a)(5) exemption will have minimum wage protection but will continue to be exempt from the act’s overtime requirements under an amended section 13(b)(4). The bill will thus have the effect of placing fish processing and fish canning on the same basis under the act. There is no logical reason for treating them differently and their inclusion within the act’s protection is desirable and consistent with its objectives.

The present exemptions in sections 13(a)(5) and 13(b)(4) have been judicially interpreted to apply to all employees employed in the seafood industry including any employee who participates in activities which are necessary to the conduct of the operations specifically described in the exemptions (*McComb v. Consolidated Fisheries Company*, 174 F. 2d 74, C.A. 3, 1949). These interpretations are consistent with the congressional purpose of treating all employees of one establishment in the same manner under the act and of avoiding segmentation as between different employees of the same employer engaged in the named operations.

For the same reasons, there was included in section 13(a)(5) as amended by the bill an exemption for the “first processing, canning, or packing” of marine products “at sea as an incident to or in conjunction with such fishing operations.” The purpose of this additional provision is to make certain that the act will be uniformly applicable to all employees on the fishing vessel including those employees on the vessel who may be engaged in these activities at sea as an incident to the fishing operations conducted by the vessel.

3. Switchboard operators in small public telephone exchanges

The present minimum wage and overtime exemption in section 13(a)(11) of the act applicable to switchboard operators in public

telephone exchanges which have not more than 750 stations is amended by the bill. This section will now be applicable only to switchboard operators employed by any "independently owned public telephone company which has not more than 750 stations." Under the bill, switchboard operators are exempt if they are employed by an independently owned telephone company which has a combined total of fewer than 750 stations in the one or more exchanges that it may own. The exemption will not apply to small exchanges which are part of larger companies even if the individual exchanges have less than 750 stations.

The original Fair Labor Standards Act did not exempt telephone operators but in 1939 an exemption was added for operators in public telephone exchanges with fewer than 500 telephones. In 1949 the 500-station exemption was increased to 750 stations.

There has always been contention that the exemption was intended for small companies and not small exchanges which may be part of larger companies. The amendment proposed by the bill will have the effect of limiting the exemption to small independently owned companies which have fewer than 750 telephones.

This amendment will extend the protection of the act to an estimated 30,000 switchboard operators.

E. OTHER PROVISIONS

1. Minimum wage rates for employees in Puerto Rico, the Virgin Islands, and American Samoa

The act now provides for the establishment of minimum wage rates for industries in Puerto Rico, the Virgin Islands and American Samoa by wage orders issued pursuant to recommendations of tripartite industry committees. The statute requires that each of the rates be reviewed at least once during each biennial period. It is the committee's conclusion that the minimum rates for industries employing workers in Puerto Rico should, except where substantial curtailment of employment would result, be increased by the same percentages as the minimum rate for the mainland. Industries which employ half of all covered workers in Puerto Rico are now subject to rates of \$1 an hour, a limit which is set by the statute rather than an industry committee's determination that it is the highest rate which could be set without substantial curtailment of employment. A \$1 rate has been applicable in most of these industries for 2 or more years.

Another consideration is that the Puerto Rican industries, which sell in the mainland market in competition with mainland firms, would tend to gain a competitive advantage if a minimum wage increase is imposed upon the mainland firms while the present rates for Puerto Rican industries are continued.

The bill contains provisions under which each of the rates applicable to currently covered employees in any industry in Puerto Rico or the Virgin Islands will be increased by 15 percent, the same increase as will be applicable to mainland industries, unless an appeal is made. Two years after the first increase in the wage rate for any industry has become effective, the rate will be further increased by an amount equal to 10 percent of the rate in effect at the time of enactment of the amendments, but not in excess of \$1.15 during the first 2 years after the effective date of the act, or \$1.25 thereafter. However, no rate

applicable in these islands which has been in effect for less than 1 year will be increased until a full year has elapsed.

Either of the percentage increases referred to above may be superseded upon the basis of the recommendations of a review committee appointed by the Secretary of Labor under procedures prescribed in the bill upon application by employers employing a majority of employees in an industry. The application must be accompanied by financial and other data as required by the Secretary. The bill makes provision for appointment of a review committee if, on the basis of such financial and other data, the Secretary has reasonable cause to believe that such percentage increase would substantially curtail employment in the industry. A review committee may recommend a rate or rates in lieu of the applicable percentage increase, not in excess of \$1.15 during the first 2 years after the effective date of the act, or \$1.25 thereafter. In the event a wage order is not issued pursuant to the recommendations of such review committee prior to the dates the percentage increases are scheduled to become effective, the percentage increases will take effect, except with respect to employees of an employer who (1) filed an application for the review committee and (2) provided an undertaking with sureties satisfactory to the Secretary to cover the difference between the wages his employees actually received and the wages to which they become entitled. The bill further provides that no special industry committee shall hold any hearing within 1 year after a minimum rate or rates for such industry shall have been recommended to the Secretary by a review committee.

Provision is also made for setting the initial minimum rate for employees on the islands to whom protection will be newly extended. The bill provides for appointment, within 60 days after the date of enactment, of a special industry committee to determine the rate or rates appropriate for the newly protected workers. Such rate or rates will become effective on the effective date of the wage order issued pursuant to the industry committee's recommendation, but not before 60 days after the effective date of the amendments. Subsequently, each rate will be subject to review at least once during each biennial period.

2. Definition of wage

Apart from the definitions already referred to in connection with coverage, the definition of "wage" in section 3(m) of the act will be modified by giving the Secretary authority to determine the fair value of facilities furnished by the employer on the basis of average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. The bill also provides that the cost of board, lodging, or other facilities would not be included as a part of wages if excluded by a bona fide collective bargaining agreement.

3. First processing, canning, or packing fruits or vegetables

(a) The bill deals only with that portion of the exemption provided in section 7(c) of the present act for employees who are engaged in—

the first processing of, or in canning or packing perishable or seasonal fresh fruits or vegetables, or in the first processing, within the area of production (as defined by the Secretary),

of any agricultural or horticultural commodity during seasonal operations, or in handling, slaughtering, or dressing poultry or livestock.

Employees employed in most of these operations are now completely exempt from the overtime requirements of the act for a period of 14 workweeks in the aggregate in each calendar year by virtue of the exemption contained in section 7(c) and, in addition, they are exempt under section 7(b)(3) for another period of 14 workweeks in the aggregate during which overtime compensation is required only for work in excess of 12 hours a day or 56 hours a week. Thus, such employees are not protected by the 40-hour workweek for a total of 28 workweeks in the aggregate during each calendar year.

The bill proposes to reduce somewhat these exemptions so as to provide a period of 10 weeks in the aggregate each year of complete exemption from overtime plus an additional period of 10 weeks in the aggregate each year during which overtime compensation will be required only for hours worked in excess of 12 in a day or 56 in a week. Thus, those operations which now have 28 exempt overtime weeks will still have 20 weeks of overtime exemption each calendar year.

The bill does not make any change in the following exemptions for agriculture and agricultural processing:

(i) Agriculture, including agricultural processing operations performed by a farmer or on a farm as an incident to or in conjunction with his farming operations, is completely exempt from the minimum wage and overtime provisions under section 13(a)(6) of the act.

(ii) The *area of production* exemption, in section 13(a)(10), is applicable to the handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or the making of cheese or butter or other dairy products.

(iii) A year-round complete overtime exemption under section 7(c) for the first processing of milk, buttermilk, whey, skimmed milk, or cream into dairy products; the ginning and compressing of cotton or the processing of cottonseed; and the processing of sugar beets, sugar-beet molasses, sugarcane, or maple sap into sugar (but not refined sugar) or into sirup.

(iv) The seasonal industry exemption under section 7(b)(3) provides 14 weeks each year of limited overtime exemption (up to 12 hours a day and 56 hours a week) for any industry found by the Secretary of Labor to be of a seasonal nature.

All of these operations will therefore retain the exemptions they now have under the existing act.

(b) *Study of agricultural processing exemptions.*—The committee bill contains a provision directing the Secretary of Labor to study the application of all of these exemptions and to report on this study with recommendations to the Congress in January 1962. The scope and basis of application of these exemptions differ substantially although the activities with which they are concerned are similar. Exemption under section 13(a)(10) depends upon the engagement, within the "area of production," as defined by the Secretary of Labor, by the particular employee in one of the operations specifically named in the section. Under section 7(c), exemption depends upon the employee's

engagement in particular work in a place of employment where his employer is engaged in the named operations. In addition, in the case of first processing of any agricultural and horticultural commodities not otherwise specifically provided for in the subsection, the place of employment must be within the "area of production" as defined by the Secretary. Under section 7(b)(3), the exemption is applicable to all employees of an establishment in any industry or branch of an industry found by the Secretary of Labor to be of a seasonal nature.

The present provisions make it difficult for employers and employees to understand their rights and obligations under the law. In the opinion of the committee the desirability and feasibility of their revision, even if only to simplify and clarify their present application, should be carefully studied. The recommendations of the Secretary in 1962 should provide a sound basis for making any necessary revisions.

4. Employees of certain enterprises engaged in the bulk distribution of petroleum products

The bill adds a new section 13(b)(10) to the act which provides an overtime exemption for employees of independently owned and controlled local enterprises engaged in the wholesale or bulk distribution of petroleum products having an annual dollar volume of sales of not more than \$1 million, exclusive of excise taxes. However, an enterprise cannot claim the exemption for its employees unless more than 75 percent of its annual dollar volume of sales is made within the State and not more than 25 percent of such volume is to customers engaged in the bulk distribution of such products for resale.

5. Specified employees of certain broadcasting stations

The committee bill provides a new overtime exemption in section 13(b)(9) for any announcer, news editor, or chief engineer of a radio or television station if the major studio of the station is located in a city or town which has a population of less than 50,000 according to the U.S. Bureau of the Census and is not part of a "standard metropolitan statistical area," as defined by the Bureau of the Budget, having a population in excess of 50,000.

The exemption is specifically limited to those employees who are employed primarily in the named occupations, although such employees may engage in related activities, including the sale of broadcasting time for the broadcasting company by which they are employed, as an incident to their principal occupation.

6. Drivers and drivers' helpers paid on a trip rate basis

The present act contains an overtime exemption, in section 13(b)(1), for drivers, drivers' helpers, loaders, and mechanics with respect to whom the Interstate Commerce Commission has power to regulate maximum hours of service. While this exemption applies to many drivers and drivers' helpers employed on a trip rate or similar basis, there are some employees engaged in such activities whose employment is not within the ICC's jurisdiction.

The bill will not change this exemption. However, it will provide, in a new section 13(b)(12), an overtime exemption applicable to an employee employed as a driver or drivers' helper on a trip rate or similar basis making local deliveries. An employee so employed will

be exempt from the act's overtime provisions if the Secretary of Labor finds that the agreement establishing such basis of employment has the general purpose and effect of reducing the hours worked by the employees to, or below, the maximum workweek applicable to them under the act.

7. *Child labor*

The bill amends section 12(c) of the act to provide the protection of the child labor provisions in enterprises engaged in commerce or in the production of goods for commerce. This provision, which would bar employment of oppressive child labor in any such enterprise, conforms the coverage of these provisions to the new coverage provided for such enterprises under the minimum wage.

8. *Measuring the annual dollar volume of sales*

Under the bill, an "enterprise" in section 3(s) (1), (2), and (4) must have \$1 million or more in annual sales. The method of calculating the requisite dollar volume of sales or business will be the same as is now followed under the law with respect to calculating the annual dollar volume of sales in retail and service establishments, and in laundries under the exemptions provided in section 13(a) (2), (3), (4), and (13) of the act. The procedure for making the calculation is set forth in the Department's Interpretative Bulletin, title 29, Code of Federal Regulations, part 779, section 779.17. As it is there stated, the "annual dollar volume of sales" consists of the gross receipts from all types of sales during a 12-month period.

Thus, for purposes of determining the applicability of the act to an enterprise during any calendar quarter (January 1–March 31; April 1–June 30; July 1–September 30; October 1–December 31), the gross receipts from all of its sales, or volume of business in the case of 3(s)(5), during the annual period (12 calendar months) which immediately precedes the current calendar quarter, will be counted. In this manner the employer, by analyzing the sales, or volume of business if he is in a construction business, for the 12 months immediately preceding any current calendar quarter, will know whether or not to comply with the requirements of the act in the workweeks ending in the current quarter-year.

In applying this rule, the gross receipts or gross business of an "enterprise" for such 12-month period will constitute its annual dollar volume for that period even though the establishment did not operate throughout the entire year.

When a new business is commenced, the employer will necessarily be unable for a time to determine its annual dollar volume on the basis of the preceding annual period described above, because the business will have no gross receipts during such period. In such cases, for purposes of determining the applicability of the act in workweeks falling within the calendar quarter in which the business commenced operations, the gross receipts of such new business during the period which it has been in operation will be taken as representative of its annual dollar volume in applying the test of section 3(s). Thereafter, the analysis can be based on the period described above.

In calculating the annual dollar volume of sales of an "establishment" described in section 3(s)(6), the same procedure as described above will be followed.

This procedure will apply in all cases where annual dollar volume tests are provided by the act.

Under the bill the computation of the annual dollar volume of sales for retail or service enterprises, or for laundry and drycleaning enterprises, or for the "establishment" described in section 3(s)(6) will be made "exclusive of excise taxes at the retail level which are separately stated."

Thus, in determining whether the enterprise or establishment, as the case may be, has the requisite annual dollar volume of sales, excise taxes will not be counted if they are taxes that are collected at the retail level and are separately identified in the price charged the customer for the goods or services at the time of the sale. Excise taxes which are levied at the manufacturer's, wholesaler's, or other distributive level will not be excluded in calculating the dollar volume of sales nor will excise taxes be excluded in cases where the customer is charged a single price for the merchandise or services and the taxes are not separately identified when the sale is made.

9. Enforcement

Under the present provisions of the act, the Secretary of Labor has no authority to require the payment of minimum wages and overtime compensation not paid in compliance with the law, except where an employee requests that an action be brought by the Secretary of Labor. This limitation has impeded the Secretary in his efforts to enforce the act since many employees who have not been paid in compliance with the act are hesitant about requesting legal action against their employers.

The bill therefore amends sections 16 and 17 of the act so as to establish a more effective method of enforcing an employee's rights by authorizing the Federal courts to order the payment of the actual amount of unpaid wages due an employee in injunctive actions brought under section 17.

Section 16(b) of the present act contains a provision allowing an employee to bring an action on his own against his employer or former employer for the amount of wages due him, plus an equal amount as liquidated damages. Very few of these suits have been brought by employees under section 16(b) of the act and of the few that have been brought most are initiated by individuals no longer in the employ of the defendant employer. Under these amendments, however, filing of a complaint by the Secretary, pursuant to the new authority given him to initiate such injunction suits without formal requests from employees, terminates the rights of individuals to later file suit for compensation and liquidated damages under 16(b). This would then relieve the courts and employers of the burden of litigating a multiplicity of suits based on the same violations of the act by an employer. Once suit is initiated by the Secretary, the courts are authorized to require payment of all minimum wages and overtime compensation found due and unpaid. They are not, however, authorized to require payment of an additional amount as liquidated damages.

In calendar year 1960, investigative activities of the Wage and Hour and Public Contracts Divisions revealed an estimated \$30 million in unpaid minimum wages and overtime compensation due nearly 200,000 employees. Of this amount, \$16 million has not been

paid, and the Secretary has no authority, in the absence of an employee request, to require payment.

Since the Department of Labor has been able to make compliance investigations of only approximately 5 percent of all currently covered establishments in 1 year, the investigations undertaken must have a spreading effect. If an adequate level of compliance with the law is to be achieved, these investigations must result in continuing compliance in establishments investigated and also in furthering compliance in uninvestigated establishments.

The proposed amendment would make these investigations much more effective by providing a practical method for requiring payment of the amounts of any wages or overtime compensation which an employer has failed or refused to pay, as required by the act. Placing the probability of financial liability on those employers who are presently careless of their obligations under the act would increase the level of compliance with the statute, and would protect complying employers from the unfair wage competition of the noncomplying employers.

The provision in the bill authorizing the courts to restrain any withholding of minimum wages or overtime compensation in violation of section 15(a)(2) does not change the present authority of the courts to order reimbursement for losses incurred by an employee due to discriminatory discharge in violation of section 15(a)(3) of the act (*Mitchell v. DeMario*, 361 U.S. 288).

10. *Effective date*

This bill is to take effect upon the expiration of 120 days after the date of enactment, except as otherwise provided. Since there are some provisions both under the present act and under these amendments which necessitate the issuance of rules, regulations, and orders by the Secretary of Labor in order to effectively carry out their intent, authority is given the Secretary to promulgate such rules, regulations, and orders on or after the date of enactment of this bill.

F. "ENTERPRISE"

The new coverage provided by the bill applies, in large measure, to employees of "enterprises" engaged in commerce or in the production of goods for commerce. As defined in the bill in the proposed section 3(r) of the act, the term is not necessarily coextensive with the entire business activities of an employer but means, subject to specified limitations, "the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units, including departments of an establishment operated through leasing arrangements." It does not include the related activities performed for such an enterprise by an independent contractor, such as an independent accounting firm or sign service or advertising company, and there are other specific exclusions provided in the definition, which are explained below.

The "enterprise" concept as a key to new coverage is by no means a novel one. This approach was adopted in proposed amendments to the act which were considered in 1949, and was followed by the bill passed by the Senate in 1960. The enterprise approach is also

taken in the bill passed this year by the House of Representatives. In the present committee bill the term "enterprise" has been carefully defined and delimited, and some revision has been made in last year's definition to clarify and express more accurately its intended scope.

Related activities conducted by separate business entities will be considered a part of the same enterprise where they are joined either through unified operation or common control into a unified business system or economic unit to serve a common business purpose.

The bill's approach is to treat as separate enterprises those businesses which are unrelated to each other. For example, if a single company owns several retail apparel stores and is also engaged in the lumbering business, the sales of the lumbering business would not be included in the annual dollar volume in determining whether the \$1 million test under section 3(s)(1) has been met. The employees of the lumbering business would not be included in the "enterprise" even if the \$1 million test were met since they are not engaged in the "related activities" of the retail stores.

Within the meaning of this term, activities are "related" when they are the same or similar, such as those of the individual retail or service stores in a chain, or departments of an establishment operated through leasing arrangements. They are also "related" when they are auxiliary and service activities such as central office and warehousing activities and bookkeeping, auditing, purchasing, advertising, and other services. Likewise, activities are "related" when they are part of a vertical structure such as the manufacturing, warehousing, and retailing of a particular product or products under unified operation or common control for a common business purpose.

Further, in order for "related activities" to be part of an enterprise they must be performed for a "common business purpose." Eleemosynary, religious, or educational and similar activities of organizations which are not operated for profit are not included in the term "enterprise" as used in this bill. Such activities performed by nonprofit organizations are not activities performed for a common business purpose.

The bill also contains provisions which should insure that a small local independent business, not in itself large enough to come within the new coverage, will not become subject to the act by being considered a part of a large enterprise with which it has business dealings.

The definition of "enterprise" expressly makes it clear that a local retail or service establishment which is under independent ownership shall not be considered to be so operated and controlled as to be other than a separate enterprise because of a franchise, or group purchasing, or group advertising arrangement with other establishments or because the establishment leases premises from a person who also happens to lease premises to other retail or service establishments. For example, a retail establishment will not become part of an enterprise which operates a shopping center merely because it rents its establishment from the shopping center operator.

The same result will follow in the case where a local establishment agrees that it will sell certain goods specified by a particular manufacturer, distributor or advertiser, or where the establishment has the exclusive right to sell the goods or use the brand name of a manufacturer, distributor or advertiser within a specified area.

Thus the mere fact that a group of independently owned and operated stores join together to combine their purchasing activities or to run combined advertising will not for these reasons mean that their activities are performed through unified operation or common control and they will not for these reasons be considered a part of the same "enterprise." This is also the case in food retailing because of the great extent to which local independent food store operators have joined together in many phases of their business. While maintaining their stores as independently owned units, they have affiliated together not just for the purchasing of merchandise, but also for providing numerous other services such as (1) central warehousing; (2) advertising; (3) sales promotions; (4) managerial advice; (5) store engineering; (6) accounting systems; (7) site location; and (8) hospitalization and life insurance protection.

Whether such arrangements bring the establishment within the franchisor's, lessor's, or grantor's "enterprise" is a question to be determined on all the facts. The facts may show that the arrangements reserve the necessary right of control in the grantor or unify the operations among the separate "franchised" establishments so as to create an economic unity of related activities for a common business purpose. In that case, the "franchised" establishment will be considered a part of the same "enterprise." For example, whether a franchise, lease, or other contractual arrangement between a distributor and a retail dealer has the effect of bringing the dealer's establishment within the enterprise of the distributor will depend upon the terms of the agreements and the related facts concerning the relationship between the parties.

There may be a number of different types of arrangements established in such cases. The key in each case may be found in the answer to the question, "Who receives the profits, suffers the losses, sets the wages and working conditions of employees, or otherwise manages the business in those respects which are the common attributes of an independent businessman operating a business for profit?"

For instance, a bona fide independent automobile dealer will not be considered a part of the enterprise of the automobile manufacturer or of the distributor. Likewise, the same result will also obtain with respect to the independent components of a shopping center.

In all of these cases if it is found on the basis of all the facts and circumstances that the arrangements are so restrictive as to products, prices, profits, or management as to deny the "franchised" establishment the essential prerogatives of the ordinary independent businessman, the establishment, the dealer, or concessionaire will be considered an integral part of the related activities of the enterprise which grants the franchise, right, or concession.

G. INTERSTATE COMMERCE BASIS OF NEW COVERAGE

The committee bill, like the original act, relies on engagement in "commerce" or in the "production of goods for commerce" to establish a firm constitutional base for the legislation under the commerce power. Over 20 years ago, in *United States v. Darby*, 132 U.S. 100, the constitutionality of this approach to Federal regulation of wages and hours was thoroughly considered and affirmatively settled by the Supreme Court, which has made it abundantly clear that this act

involves considerably less than a full exercise of the constitutional power. Since that time, further legislative and judicial guidance as to the boundaries of coverage under this language of the act has been provided, and there is a large body of administrative and judicial interpretation which will be helpful to those affected by the committee bill in adjusting to the new provisions.

The committee believes, therefore, that the approach adopted by this bill for application of the commerce power has advantages over the "affecting commerce" language used in H.R. 12677, 86th Congress, as amended and passed by the Senate in August 1960. The coverage provided is substantially the same, and the committee bill's adherence to the interstate commerce concepts which historically have characterized this act should serve to allay the misgivings voiced by some concerning the "affecting commerce" language in last year's Senate-passed bill. The committee has no doubt about the constitutionality of either approach, and notes that activities "affecting commerce" provide a basis for coverage in much of the major legislation in the labor-management field, including the Labor-Management Reporting and Disclosure Act of 1959, the Welfare and Pension Plans Disclosure Act, the Labor Management Relations Act, 1947, the National Labor Relations Act, and the Federal Employers' Liability Act. All but the last of these acts have application to employment in retailing.

The committee bill extends coverage to additional employees only in enterprises which have employees engaged in commerce or in the production of goods for commerce, and contains provisions designed to assure that the engagement in interstate commerce activities is substantial. It is settled that an employer is engaged in commerce or in the production of goods for commerce where he has employees so engaged (*Kirschbaum v. Walling*, 316 U.S. 516; and see *Mabee v. White Plains Publishing Co.*, 327 U.S. 178).

The committee believes that the traditional interstate commerce concepts of this act are clearly applicable to retailing enterprises that purchase or receive goods for resale which move or have moved across State lines. The committee notes that the Congress in 1938 provided an exemption for retail and service establishments, which would not have been necessary if their business had not involved engaging in commerce or in the production of goods for commerce within the meaning of the act.

It is clear, for example, that the sale in New York of furniture produced in North Carolina necessarily involves the production of the furniture for commerce in North Carolina, its shipment across State lines to New York with the aid of employees engaged in commerce, and its distribution to the ultimate consumers in New York. All these are equally essential to interstate commerce in such furniture. If sales stop in New York, if production stops in North Carolina, or if carriers do not operate between the two States, the furniture will not move in commerce.

It is plainly appropriate, therefore, to extend to the employees of the retail selling enterprise the same minimum wage protection that the act now affords to the production and transportation employees, who participate to no greater extent in the interstate commerce carried on in the same goods.

To insure that the bill's new coverage in the retail field will reach only those enterprises which are substantially engaged in interstate

activities, the bill contains a further test. Retail selling and servicing enterprises covered by section 3(s)(1) as proposed in the bill will not only have employees engaged in commerce or in the production of goods for commerce, and gross \$1 million or more annually, exclusive of specified taxes, but will also purchase or receive goods for resale that move or have moved across State lines (not counting movements in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more.

This volume of purchase and receipts of interstate commerce goods, together with the gross annual sales volume of \$1 million or more exclusive of specified taxes, should provide more than adequate assurance that the newly covered enterprises will be those plainly engaged to a substantial extent in interstate commerce and should make it abundantly certain that no small local business will be affected. The committee notes that under the present act local producers having a much smaller dollar volume of business and a considerably smaller percentage of business involving shipments across State lines are required to comply with the law, and that under the National Labor Relations Act as amended by the Labor-Management Reporting and Disclosure Act of 1959, retail enterprises having a considerably smaller amount of interstate activity have been held to be covered, and the National Labor Relations Board has been prohibited from declining jurisdiction of such an enterprise having \$500,000 or more in gross annual volume of business.

It will be noted that the application of the test relating to purchases and receipts of goods for resale, where such goods move or have moved across State lines, is not based on any interstate movement of such goods from the reselling establishment in its deliveries to customers. The interstate movement referred to is, rather, that movement by which such goods have been made available for sales of the reselling establishment, as where a retail enterprise located in one State purchases or receives goods for resale to its customers and these goods move or have moved in commerce from other States. Similarly, interstate movement within the intentment of the provision would occur where a chain retailing organization purchases or receives goods for resale by establishments located in different States and any of the goods so purchased or received move or have moved across State lines to the enterprise or its suppliers or from the enterprise or its suppliers to establishments which will undertake to resell the goods.

The use of the descriptive phrase "for resale" to qualify the term "goods" in the above test insures that the goods purchased and received which are counted toward the \$250,000 minimum amount will include stock in trade of the affected enterprise but not its capital goods such as fixtures and equipment. The intention at the time of purchase or receipt of the goods should be a sufficient criterion to determine whether they are purchased or received "for resale," and a subsequent sale of the goods in regular course of business would be clear evidence of such an intent.

The exclusion of essentially local retail businesses from the new coverage may be illustrated by the familiar types of enterprises which engage in selling handiwork items and similar goods which are locally produced from local materials and are sold in establishments in the towns and on the highways of the State where the goods are made. Under the committee bill such an enterprise, even if it grossed \$1

million or more exclusive of specified taxes annually, would typically not be included in the new coverage because its purchases and receipts of interstate goods would not amount to \$250,000 annually. For purposes of this test same would be true of enterprises making retail sales of locally produced ice, coal, etc., which does not cross State lines.

Finally, the bill carefully avoids extending the act's coverage to so-called "mom and pop" stores in which the only employees are the owner, or persons standing in the relationship of parent, spouse, or child of the owner. The proposed new section 3(s) of the act which defines "enterprise engaged in commerce or in the production of goods for commerce" contains a proviso specifically excluding such businesses from that term.

The committee has considered and rejected as a test of interstate commerce the operation by an enterprise of establishments located in more than one State. The location of the establishments, whether in one or in more than one State, according to the evidence available to the committee, has little or no relation in and of itself to the involvement of the enterprise in interstate commerce. There are many retail selling enterprises, both individual and chain, which operate in only one State but which do many millions of dollars in business and buy and sell huge quantities of goods brought into the State from many other States and foreign countries. On the other hand, many small and local enterprises in metropolitan areas near State lines operate establishments in more than one State. Similarly, there are businessmen who operate stores which are predominantly local in widely separated areas in different States whose involvement in interstate commerce is minimal compared with that of the much larger enterprises which happen to operate within the confines of a single State. The committee is convinced that the tests proposed in the committee bill provide a much sounder approach and a much more accurate gauge of interstate commerce activity than does the fact that an enterprise does or does not have establishments in more than one State.

H. SHELTERED WORKSHOP

Questions have been raised with the committee about the adequacy of minimum wage protection for handicapped workers, particularly those in sheltered workshops. "Sheltered workshops" are organizations designed to provide employment (and various services) for handicapped persons unable to work in competitive industry, generally with the objective of rehabilitating such persons to permit them to enter competitive industry.

Under section 14 of the act, Congress has authorized the Secretary of Labor to permit subminimum wages for those whose earning capacity is impaired by age or physical or mental deficiency or injury. The Secretary has developed administrative standards for authorizing sheltered workshops to pay less than the statutory minimum. These standards are in title 29, part 525 of the Code of Federal Regulations.

Individual workshops are granted a certificate by the Secretary specifying a minimum for their operations. The certificate minimums are often set at extremely low levels, frequently as little as 50, 25, and even 10 cents an hour. The workshop managers then decide themselves, on the basis of broad criteria developed by the Secretary, what wage should be paid each handicapped worker between the certificate minimum and the statutory minimum.

This procedure for subminimum rates in workshops, while commendably flexible, also obviously permits ready abuse at the expense of handicapped workers, particularly in the absence of a vigorous investigation and enforcement program.

The number of such workshops and workers in them has increased substantially in recent years, virtually doubling in the last half-dozen years. The growth has been accompanied by an increase in complaints that minimum wages paid under the Secretary's regulations may often be inadequate and that some sheltered workshops may be undercutting competitive industry because of wage differentials.

The committee has not undertaken to explore the problem in this year's hearings. We are aware that there are dedicated and responsible leaders in this field who are genuinely concerned with the well-being of the Nation's handicapped and with furtherance of the constructive role of sheltered workshops. They apparently have become increasingly cognizant of the value and need of observance of meaningful minimum standards and we have been informed that they are seeking to meet the problems through development and application of new and suitable standards.

We trust that adoption and observance of more satisfactory standards can be accomplished through administrative machinery now functioning. If not, the committee would hope to explore and develop formal statutory standards to assure adequate minimum wage protection for all handicapped persons.

SECTION-BY-SECTION ANALYSIS

The bill (except for the first and the last two sections) consists of a series of amendments to the Fair Labor Standards Act of 1938, which is hereinafter referred to as the "act."

Section 1.—Short title

This section provides that the bill may be cited as the "Fair Labor Standards Amendments of 1961."

Section 2.—Definitions

Subsection (a).—Adds to section 3(m) of the act, defining the term "wage," a proviso for the exclusion of board, lodging, or other facilities from wages to the extent that they are excluded under collective bargaining agreements, and an additional proviso authorizing the Secretary to make "fair value" determinations of such facilities.

Subsection (b).—Adds new paragraphs to section 3 of the act defining additional terms as follows:

Paragraph (p): Defines "American vessel" as any vessel documented or numbered under the laws of the United States (for the purpose of extending minimum wage coverage to seamen on such vessels).

Paragraph (q): Defines "Secretary" to mean the Secretary of Labor.

Paragraph (r): Defines "enterprise."

Paragraph (s): Defines "enterprise engaged in commerce or the production of goods for commerce" and brings within the act's coverage the following six categories:

Paragraph (s)(1): Any such enterprise which has one or more retail service establishments and has an annual gross

volume of sales of \$1 million or more (exclusive of specified retail excise taxes) if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more.

Paragraph (s)(2): Any such enterprise which has one or more establishments engaged in laundering, cleaning, or repairing clothing or fabrics and has an annual gross of sales of \$1 million or more (exclusive of specified retail excise taxes).

Paragraph (s)(3): Any such enterprise operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier.

Paragraph (s)(4): Any establishment of such an enterprise that is not in other categories mentioned in this subsection, if the establishment has employees engaged in commerce or the production of goods for commerce and if the enterprise has an annual gross volume of sales of \$1 million or more.

Paragraph (s)(5): Any such enterprise engaged in construction, reconstruction, or both, and having an annual gross volume of business of \$350,000 or more.

Paragraph (s)(6): Any gasoline service establishment having an annual gross volume of sales of \$250,000 or more exclusive of specified retail excise taxes.

A proviso to paragraph (s) excludes from any such enterprise an establishment the only employees of which are the owner or a parent, spouse, or child of such owner or persons standing in that relationship.

Section 3.—Investigation of effects on employment of foreign competition

This section adds a new subsection (e) to section 4 of the act which authorizes the Secretary to investigate when he has reason to believe any industry covered by the act suffers increased unemployment due to foreign competition and directs him to report to the President and to Congress if he so finds, and to include pertinent information on increased employment from exports.

Section 4.—Special industry committees for Puerto Rico and the Virgin Islands

This section amends section 5(a) of the act to add the new coverage language to the industry committee wage-setting authority for Puerto Rico and the Virgin Islands.

Section 5.—Minimum wages

Section 5(a)(1).—Provides in section 6(a) of the act the workweek basis of coverage previously given to the act by judicial interpretation.

Section 5(a)(2).—Amends section 6(a) of the act to provide a minimum wage of \$1.15 an hour for presently covered employees for 2 years after the effective date and a minimum of \$1.25 an hour thereafter.

Section 5(a)(3).—Provides in section 6(a)(3) of the act for application of the amendments to employees in American Samoa and retains present wage rate procedure for Samoa.

Section 5(b)(1).—Amends section 6(b) of the act to provide a minimum wage to newly covered employees as follows:

- not less than \$1 an hour for the first year after the effective date;
- not less than \$1.05 an hour during the second year;
- not less than \$1.15 an hour during the third year; and
- not less than \$1.25 an hour thereafter.

Section 5(b)(2).—Provides, in a new section 6(b)(2) of the act, for computation of the minimum wage for seamen on American-flag vessels on a basis other than the workweek, such as on the basis of an entire voyage, and it also excludes off-duty hours of such seamen from the computation of hours worked under the act.

Section 5(c).—Provides, in section 6(c) of the act, percentage increases for currently covered workers subject to wage orders in Puerto Rico and the Virgin Islands, equivalent to increases in mainland rates, unless a review committee sets a different rate; for newly covered workers, rates will be set through industry committee procedures.

Section 6.—Maximum hours

Section 6(a).—Amends section 7(a) of the act to provide overtime pay for newly covered employees as follows:

- during the first year after the effective date, no overtime pay;
- during the second year, overtime pay after 44 hours;
- during the third year, overtime pay after 42 hours;
- thereafter, overtime pay after 40 hours.

Section 6(b).—Provides a technical amendment to section 7(b) of the act to conform to amendment of section 7(a).

Section 6(c).—Amends section 7(c) of the act to change the number of workweeks of overtime exemption available in any year to certain processors of agricultural commodities under this subsection and under section 7(b)(3) from 14 to 10 in each instance, or a total of 20 in lieu of the present 28.

Section 6(d), (e), (f), and (g).—Provide technical amendments to paragraphs (5) and (7) of subsection (d) and to subsections (e) and (f) of section 7 of the act, to conform to changes made in section 7(a).

Section 6(h).—Adds a new subsection (h) to section 7 of the act to provide an overtime exemption for an employee of a retail or service establishment who receives more than one-half his pay from commissions on goods or services if his regular rate of pay exceeds 1½ times his applicable minimum rate.

Section 7.—Wage orders in Puerto Rico and the Virgin Islands

This section adds the new coverage language, “any enterprise engaged in commerce or in the production of goods for commerce,” to the existing provisions of section 8 of the act governing wage order proceedings in Puerto Rico and the Virgin Islands.

Section 8.—Child labor provisions

This section adds the new coverage language, “any enterprise engaged in commerce or in the production of goods for commerce,” to the existing child labor provisions of section 12(c) of the act.

Section 9.—Exemptions

This section revises subsections (a) and (b) of section 13 of the act, providing exemptions from the minimum wage or overtime provisions, or both, for certain employees.

The exemptions in section 13(a) of the act, from both the minimum wage and overtime requirements, are retained or revised as follows:

Section 13(a)(1).—Retains the present exemptions for executive, administrative, and professional employees and for outside salesmen, adding a provision permitting the performance of not more than 40 percent of nonexecutive or nonadministrative work by an executive or administrative employees of a retail or service establishment. Deletes the exemption for employees in a local retailing capacity.

Section 13(a)(2).—Amends the exemption for retail or service establishments so that the exemption will not apply to such establishments in newly covered enterprises, except where the establishment is one of the following, for which the exemption from both minimum wage and overtime is preserved:

- (1) Any such establishment with annual dollar volume (exclusive of specified retail excise taxes) of less than \$250,000;
- (2) A hotel, motel, or restaurant;
- (3) A motion picture theater;
- (4) An amusement or recreational establishment operating on a seasonal basis;
- (5) A hospital;
- (6) An institution primarily engaged in care of the sick, aged, mentally ill or defective, residing on the premises;
- (7) A school for physically or mentally handicapped or gifted children.

Section 13(a)(3).—Retains the present exemption for laundries and cleaning establishments with the following amendments: (i) the exemption will not apply to the newly covered enterprises defined in the proposed section 3(s)(2); (ii) commercial as well as industrial customers will count toward the 25 percent sales tolerance for non-exempt work; (iii) hotel, motel, and restaurant laundry workers will not be exempt unless the laundry work is done exclusively for the hotel, motel or restaurant by which they are employed; and (iv) establishments with an annual dollar volume of sales of \$250,000 or more will not be exempt if engaged in substantial competition in the same metropolitan area with an establishment that does not make most of its sales within the State.

Section 13(a)(4).—Retains the present exemptions for employees in an exempt retail establishment who make or process on the premises of the establishment the goods the establishment sells.

Section 13(a)(5).—Retains the complete exemption for fishing and related offshore processing operations on the catch. Removes the minimum wage exemption for employees engaged in onshore fish processing. (The overtime exemption now applicable to fish-canning employees is also provided for these onshore processing employees by a revised section 13(b)(4).)

Section 13(a)(6).—Retains the existing exemption for employees employed in agriculture.

Section 13(a)(7).—Retains the exemption to the extent provided by the Secretary for learners, apprentices, messengers, and handicapped workers and provides a like exemption to accord with the amendment to section 14 with respect to certain students employed in retail or service establishments.

Section 13(a)(8).—Retains the exemption for small newspapers.

Section 13(a)(9).—Provides an exemption for retail and service establishment employees primarily engaged in food or beverage service on the premises or in specified catering activities. (The minimum wage exemption for employees of transit companies previously in section 13(a)(9) of the present act is removed and an overtime exemption is provided for those employees in a new section 13(b)(7), below.)

Section 13(a)(10).—Retains the present “area of production” exemption.

Section 13(a)(11).—Changes the existing exemption for switchboard operators by limiting it to operators employed by an independently owned public telephone company with not more than 750 stations.

Section 13(a)(12).—Retains the present exemption for employers engaged in the business of operating taxicabs.

Section 13(a)(13).—Retains the exemption for small telegraphic agencies in exempt retail or service establishments.

Section 13(a)(14).—Retains the exemption for seamen except those on American-flag vessels (an overtime exemption for seamen on American-flag vessels is provided in a new section 13(b)(6)).

Section 13(a)(15).—Retains the present exemption for logging crews of 12 or fewer employees.

The exemptions in section 13(b) of the act from the overtime provisions are retained or revised as follows:

Section 13(b)(1).—Retains the overtime exemption for certain motor carrier employees.

Section 13(b)(2).—Retains the overtime exemption for certain railroad and pipeline employees.

Section 13(b)(3).—Retains the overtime exemption for certain air carrier employees.

Section 13(b)(4).—Extends the present overtime exemption for seafood canning employees to apply also to employees in onshore handling and processing of seafood.

Section 13(b)(5).—Retains the overtime exemption for outside buyers of poultry, eggs, cream, or milk.

Section 13(b)(6).—Provides an overtime exemption for seamen on American-flag vessels.

Section 13(b)(7).—Provides an overtime exemption for employees of interurban and metropolitan transit companies.

Section 13(b)(8).—Provides an overtime exemption for employees of gasoline service stations.

Section 13(b)(9).—Provides an overtime exemption for announcers, news editors, or chief engineers of radio or television stations whose major studios are in cities or towns of not more than 50,000 population (except where part of a metropolitan area having a population of more than 50,000).

Section 13(b)(10).—Provides an overtime exemption for employees of independent local bulk petroleum products distributors under specified conditions if the annual sales of the enterprise, after taxes, does not exceed \$1 million.

Section 13(b)(11).—Provides an overtime exemption for any employee of a retail or service establishment primarily engaged in the business of selling automobiles, trucks, or farm implements.

Section 10.—Employment of students

This section provides for employment (as in the case of learners and apprentices under present law) of full-time students outside their school hours in retail or service establishments in jobs not of the type ordinarily given to a full-time employee.

Section 11.—Penalties and injunction proceedings

This section provides authority for Federal district courts to issue court orders in injunction actions requiring employers to cease unlawful withholding of minimum wages and overtime compensation found due under the act. The bill also provides protection, after such an action is brought, against the bringing of employee suits for recovery of such amounts with an additional equal amount as liquidated damages.

Section 12.—Study of agricultural handling and processing exemptions

Provides for a study by the Secretary of Labor of the present exemptions for handling and processing agricultural products, and a report with recommendations to the Congress in January 1962.

Section 13.—Effective date

This section makes provisions of legislation effective 120 days after enactment, except as otherwise provided and for promulgation of necessary regulations on and after date of enactment.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED

AN ACT To provide for the establishment of fair labor standards in employment in and affecting interstate commerce, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Labor Standards Act of 1938."

FINDING AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce.

(b) It is hereby declared to be the policy of this Act, through the exercise by Congress of its power to regulate commerce among the sev-

eral States and with foreign nations, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(b) "Commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(c) "State" means any State of the United States or the District of Columbia or any territory or possession of the United States.

(d) "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee but shall not include the United States or any State or political subdivision of a State, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(e) "Employee" includes any individual employed by an employer.

(f) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

(g) "Employ" includes to suffer or permit to work.

(h) "Industry" means a trade, business, industry, or branch thereof, or group of industries, in which individuals are gainfully employed.

(i) "Goods" means goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.

(j) "Produced" means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this Act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.

(k) "Sale" or "sell" includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(l) "Oppressive child labor" means a condition of employment under which (1) any employee under the age of sixteen years is employed by an employer (other than a parent or a person standing in

place of a parent employing his own child or a child in his custody under the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being) in any occupation, or (2) any employee between the ages of sixteen and eighteen years is employed by an employer in any occupation which the Secretary of Labor shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being; but oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child-labor age. The Secretary of Labor shall provide by regulation or by order that the employment of employees between the ages of fourteen and sixteen years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.

(m) "Wage" paid to any employee includes the reasonable cost, as determined by the Secretary of Labor, to the employer of furnishing such employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by such employer to his employees: *Provided, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: Provided further, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee.*

(n) "Resale" shall not include the sale of goods to be used in residential or farm building construction, repair, or maintenance: *Provided, That the sale is recognized as a bona fide retail sale in the industry.*

(o) Hours Worked.—In determining for the purposes of sections 6 and 7 the hours for which an employee is employed, there shall be excluded any time spent in changing clothes or washing at the beginning or end of each workday which was excluded from measured working time during the week involved by the express terms of or by custom or practice under a bona fide collective-bargaining agreement applicable to the particular employee.

(p) "American vessel" includes any vessel which is documented or numbered under the laws of the United States.

(q) "Secretary" means the Secretary of Labor.

(r) "Enterprise" means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether per-

formed in one or more establishments or by one or more corporate or other organizational units, including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That within the meaning of this subsection a local retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not necessarily limited to, an agreement, (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such local establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

(s) "Enterprise engaged in commerce or in the production of goods for commerce" means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated and if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more;

(2) any such enterprise which has one or more establishments engaged in laundering, cleaning, or repairing clothing or fabrics if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

(3) any such enterprise which is engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier;

(4) any establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;

(5) any such enterprise which is engaged in the business of construction or reconstruction, or both, if the annual gross volume from the business of such enterprise is not less than \$350,000;

(6) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000 exclusive of excise taxes at the retail level which are separately stated.

Provided, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce, or a part of an enterprise engaged in commerce or in the production of goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees

of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner.

ADMINISTRATION

SEC. 4. (a) There is hereby created in the Department of Labor a Wage and Hour Division which shall be under the direction of an Administrator, to be known as the Administrator of the Wage and Hour Division (in this Act referred to as the "Administrator"). The Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$20,000 a year.

(b) The Secretary of Labor may, subject to the civil-service laws, appoint such employees as he deems necessary to carry out his functions and duties under this Act and shall fix their compensation in accordance with the Classification Act of 1949, as amended. The Secretary may establish and utilize such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed. Attorneys appointed under this section may appear for and represent the Secretary in any litigation, but all such litigation shall be subject to the direction and control of the Attorney General. In the appointment, selection, classification, and promotion of officers and employees of the Secretary, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency.

(c) The principal office of the Secretary shall be in the District of Columbia, but he or his duly authorized representative may exercise any or all of his powers in any place.

(d) The Secretary shall submit annually in January a report to the Congress covering his activities for the preceding year and including such information, data, and recommendations for further legislation in connection with the matters covered by this Act as he may find advisable. Such report shall contain an evaluation and appraisal by the Secretary of the minimum wages established by this Act, together with his recommendations to the Congress. In making such evaluation and appraisal, the Secretary shall take into consideration any changes which may have occurred in the cost of living and in productivity and the level of wages in manufacturing, the ability of employers to absorb wage increases, and such other factors as he may deem pertinent.

(e) *Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in fact resulted, or is in fact likely to result, from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress: Provided, That he may also include in such report information on the increased employment resulting from additional exports in any industry under this Act as he may determine to be pertinent to such report."*

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND
THE VIRGIN ISLANDS

SEC. 5. (a) The Secretary of Labor shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce *or employed in any enterprise engaged in commerce or in the production of goods for commerce*, or the Secretary may appoint separate industry committees to recommend the minimum rate or rates of wages to be paid under section 6 to employees therein engaged in commerce or in the production of goods for commerce *or employed in any enterprise engaged in commerce or in the production of goods for commerce* in particular industries. An industry committee appointed under this subsection shall be composed of residents of such island or islands where the employees with respect to whom such committee was appointed are employed and residents of the United States outside of Puerto Rico and the Virgin Islands. In determining the minimum rate or rates of wages to be paid, and in determining classifications, such industry committees shall be subject to the provisions of section 8.

(b) An industry committee shall be appointed by the Secretary without regard to any other provisions of law regarding the appointment and compensation of employees of the United States. It shall include a number of disinterested persons representing the public, one of whom the Secretary shall designate as chairman, a like number of persons representing employees in the industry, and a like number representing employers in the industry. In the appointment of the persons representing each group, the Secretary shall give due regard to the geographical regions in which the industry is carried on.

(c) Two-thirds of the members of an industry committee shall constitute a quorum, and the decision of the committee shall require a vote of not less than a majority of all its members. Members of an industry committee shall receive as compensation for their services a reasonable per diem, which the Secretary shall by rules and regulations prescribe, for each day actually spent in the work of the committee, and shall in addition be reimbursed for their necessary traveling and other expenses. The Secretary shall furnish the committee with adequate legal, stenographic, clerical, and other assistance, and shall by rules and regulations prescribe the procedure to be followed by the committee.

(d) The Secretary shall submit to an industry committee from time to time such data as he may have available on the matters referred to it, and shall cause to be brought before it in connection with such matters any witnesses whom he deems material. An industry committee may summon other witnesses or call upon the Secretary to furnish additional information to aid it in its deliberations.

MINIMUM WAGES

SEC. 6. (a) Every employer shall pay to each of his employees who *in any workweek* is engaged in commerce or in the production of goods for commerce wages at the following rates—

[(1) not less than \$1 an hour:]

(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section.

(2) if such employee is a homemaker in Puerto Rico or the Virgin Islands, not less than the minimum piece rate prescribed by regulation or order; or, if no such minimum piece rate is in effect, any piece rate adopted by such employer which shall yield, to the proportion or class of employees prescribed by regulation or order, not less than the applicable minimum hourly wage rate. Such minimum piece rates or employer piece rates shall be commensurate with, and shall be paid in lieu of, the minimum hourly wage rate applicable under the provisions of this section. The Secretary of Labor, or his authorized representatives, shall have power to make such regulations or orders as are necessary or appropriate to carry out any of the provisions of this paragraph, including the power without limiting the generality of the foregoing, to define any operation or occupation which is performed by such homework employees in Puerto Rico or the Virgin Islands; to establish minimum piece rates for any operation or occupation so defined; to prescribe the method and procedure for ascertaining and promulgating minimum piece rates; to prescribe standards for employer piece rates, including the proportion or class of employees who shall receive not less than the minimum hourly wage rate; to define the term "homeworker"; and to prescribe the conditions under which employers, agents, contractors, and subcontractors shall cause goods to be produced by homeworkers;

(3) [if such employee is employed in American Samoa, not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are now applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act.] *if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time. Each such committee shall have the same powers and duties and shall apply the same standards with respect to the application of the provisions of this Act to employees employed in American Samoa as pertain to special industry committees established under section 5 with respect to employees employed in Puerto Rico or the Virgin Islands. The minimum wage rate thus established shall not exceed the rate prescribed in paragraph (1) of this subsection.*

[(b) This section shall take effect upon the expiration of one hundred and twenty days from the date of enactment of this Act.]

(b) Every employer shall pay to each of his employees who in any work-week (i) is employed in an enterprise engaged in commerce or in the

production of goods for commerce, as defined in section 3(s) (1), (2), (3), or (5) or by an establishment described in section 3(s) (4) or (6), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (vi) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at rates—

(1) not less than \$1 an hour during the first year from the effective date of such amendments; not less than \$1.05 an hour during the second year from such date; not less than \$1.15 an hour during the third year from such date; and not less than the rate effective under paragraph (1) of subsection (a) thereafter;

(2) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours, during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement).

[(c) The provisions of paragraph (1) of subsection (a) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands engaged in commerce or in the production of goods for commerce only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5: *Provided, That the wage order in effect prior to the effective date of this Act for any industry in Puerto Rico or the Virgin Islands shall apply to every employee in such industry covered by subsection (a) of this section until superseded by a wage order hereafter issued pursuant to the recommendations of a special industry committee appointed pursuant to section 5.*]

*(c) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5: *Provided, That (1) the following rates shall apply to any such employee to whom the rate or rates prescribed by subsection (a) would otherwise apply:**

(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, increased by 15 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1961 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

(B) Beginning two years after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 10 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1961 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

(2) In the case of any such employee to whom subsection (b) would otherwise apply, the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates, in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not

before sixty days after the effective date of the Fair Labor Standards Amendments of 1961.

(3) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee.

MAXIMUM HOURS

SEC. 7. (a)(1) Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce for a workweek longer than forty hours, unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is [employed.] employed; and

(2) No employer shall employ any of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1), (2), or (5), or by an establishment described in section 3(s)(4), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this subsection, or (ii) is brought within the purview of this subsection by the amendments made to section 13 of this Act by the Fair Labor Standards Amendments of 1961—

(A) for a workweek longer than forty-four hours during the second year from the effective date of the Fair Labor Standards Amendments of 1961.

(B) for a workweek longer than forty-two hours during the third year from such date,

(C) for a workweek longer than forty hours after the expiration of the third year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(b) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of that specified in such subsection without paying the compensation for overtime employment prescribed therein if such employee is so employed—

(1) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand and forty hours during any period of twenty-six consecutive weeks, or

(2) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that during a specified period of fifty-two consecutive weeks the employees shall be employed not more than two thousand two hundred and forty hours and shall be guaranteed not less than one thousand eight hundred and forty hours (or not less than forty-six weeks at the normal number of hours worked per week, but not less than thirty hours per week) and not more than two thousand and eighty hours of employment for which he shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of [forty hours in the workweek] *the maximum workweek applicable to such employee under subsection (a)* or two thousand and eighty in such period at rates not less than one and one-half times the regular rate at which he is employed; or

(3) for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year in an industry found by the Secretary of Labor to be of a seasonal nature, and if such employee receives compensation for employment in excess of twelve hours in any workday, or for employment in excess of fifty-six hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

(e) (1) In the case of an employer engaged in the first processing of milk, buttermilk, whey, skimmed milk, or cream into dairy products, or in the ginning and compressing of cotton, or in the processing of cottonseed, or in the processing of sugar beets, sugar-beet molasses, sugarcane, or maple sap, into sugar (but not refined sugar) or into sirup, the provisions of subsection (a) shall not apply to his employees in any place of employment where he is so engaged; (2) and in the case of an employer engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits or vegetables, or in the first processing, within the area of production (as defined by the Secretary), of any agricultural or horticultural commodity during seasonal operations, or in handling, slaughtering, or dressing poultry or livestock, the provisions of subsection (a), during a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, shall not apply to his employees in any place of employment where he is so engaged, *except that in any such place of employment in which both clause (2) of this subsection and clause (3) of subsection (b) apply to employees, the number of exempt workweeks shall not exceed ten in any calendar year under each such clause.*

(d) As used in this section the "regular rate" at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf of, the employee, but shall not be deemed to include—

(1) sums paid as gifts; payments in the nature of gifts made at Christmas time or on other special occasions, as a reward for service, the amounts of which are not measured by or dependent on hours worked, production, or efficiency;

(2) payments made for occasional periods when no work is performed due to vacation, holiday, illness, failure of the em-

ployer to provide sufficient work, or other similar cause; reasonable payments for traveling expenses, or other expenses, incurred by an employee in the furtherance of his employer's interests and properly reimbursable by the employer; and other similar payments to an employee which are not made as compensation for his hours of employment;

(3) sums paid in recognition of services performed during a given period if either, (a) both the fact that payment is to be made and the amount of the payment are determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement, or promise causing the employee to expect such payments regularly; or (b) the payments are made pursuant to a bona fide profit-sharing plan or trust or bona fide thrift or savings plan, meeting the requirements of the Secretary of Labor set forth in appropriate regulation which he shall issue, having due regard among other relevant factors, to the extent to which the amounts paid to the employee are determined without regard to hours of work, production, or efficiency; or (c) the payments are talent fees (as such talent fees are defined and delimited by regulations of the Secretary) paid to performers, including announcers, on radio and television programs;

(4) contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old-age, retirement, life, accident, or health insurance or similar benefits for employees;

(5) extra compensation provided by a premium rate paid for certain hours worked by the employee in any day or workweek because such hours are hours worked in excess of eight in a day or **[forty in a workweek]** *in excess of the maximum workweek applicable to such employee under subsection (a)* or in excess of the employee's normal working hours or regular working hours, as the case may be;

(6) extra compensation provided by a premium rate paid for work by the employee on Saturdays, Sundays, holidays, or regular days of rest, or on the sixth or seventh day of the workweek, where such premium rate is not less than one and one-half times the rate established in good faith for like work performed in nonovertime hours on other days; or

(7) extra compensation provided by a premium rate paid to the employee, in pursuance of an applicable employment contract or collective-bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal, or regular workday (not exceeding eight hours) or workweek (not exceeding **[forty hours]** *the maximum workweek applicable to such employee under subsection (a)*), where such premium rate is not less than one and one-half times the rate established in good faith by the contract or agreement for like work performed during such workday or workweek.

(e) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of **[forty hours]** *the maximum workweek applicable to such employee under subsection (a)* if such employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bar-

gaining by representatives of employees, if the duties of such employee necessitate irregular hours of work, and the contract or agreement (1) specifies a regular rate of pay of not less than the minimum hourly rate provided in [section 6(a)] *subsection (a) or (b) of section 6 (whichever may be applicable)* and compensation at not less than one and one-half times such rate for all hours worked in excess of [forty in any] *such maximum* workweek, and (2) provides a weekly guaranty of pay for not more than sixty hours based on the rates so specified.

(f) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of [forty hours] *the maximum workweek applicable to such employee under such subsection* if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, the amount paid to the employee for the number of hours worked by him in such workweek in excess of [forty hours] *the maximum workweek applicable to such employee under such subsection—*

(1) in the case of an employee employed at piece rates, is computed at piece rates not less than one and one-half times the bona fide piece rates applicable to the same work when performed during nonovertime hours; or

(2) in the case of an employee performing two or more kinds of work for which different hourly or piece rates have been established, is computed at rates not less than one and one-half times such bona fide rates applicable to the same work when performed during nonovertime hours; or

(3) is computed at a rate not less than one and one-half times the rate established by such agreement or understanding as the basic rate to be used in computing overtime compensation thereunder: *Provided*, That the rate so established shall be authorized by regulation by the Secretary of Labor as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time;

and if (i) the employee's average hourly earnings for the workweek exclusive of payments described in paragraphs (1) through (7) of subsection (d) are not less than the minimum hourly rate required by applicable law, and (ii) extra overtime compensation is properly computed and paid on other forms of additional pay required to be included in computing the regular rate.

(g) Extra compensation paid as described in paragraphs (5), (6), and (7) of subsection (d) shall be creditable toward overtime compensation payable pursuant to this section.

(h) *No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period (not less than one month) represents commissions on goods or services.*

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 8. (a) The policy of this Act with respect to industries or enterprises in Puerto Rico and the Virgin Islands engaged in commerce

or in the production of goods for commerce is to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed in paragraph (1) of section 6(a) in each such industry. The Secretary of Labor shall from time to time convene an industry committee or committees, appointed pursuant to section 5, and any such industry committee shall from time to time recommend the minimum rate or rates of wages to be paid under section 6 by employers in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce *or in any enterprise engaged in commerce or in the production of goods for commerce* in any such industry or classifications therein. Minimum rates of wages established in accordance with this section which are not equal to the minimum wage rate prescribed in paragraph (1) of section 6(a) shall be reviewed by such a committee once during each biennial period, beginning with the biennial period commencing July 1, 1958, except that the Secretary, in his discretion, may order an additional review during any such biennial period.

(b) Upon the convening of any such industry committee, the Secretary shall refer to it the question of the minimum wage rate or rates to be fixed for such industry. The industry committee shall investigate conditions in the industry and the committee, or any authorized subcommittee thereof, shall after due notice hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under this Act. The committee shall recommend to the Secretary the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico or in the Virgin Islands a competitive advantage over any industry in the United States outside of Puerto Rico and the Virgin Islands.

(c) The industry committee shall recommend such reasonable classifications within any industry as it determines to be necessary for the purpose of fixing for each classification within such industry the highest minimum wage rate (not in excess of that prescribed in paragraph (1) of section 6(a)) which (1) will not substantially curtail employment in such classification and (2) will not give a competitive advantage to any group in the industry, and shall recommend for each classification in the industry the highest minimum wage rate which the committee determines will not substantially curtail employment in such classification. In determining whether such classifications should be made in any industry, in making such classifications, and in determining the minimum wage rates for such classifications, no classifications shall be made, and no minimum wage rate shall be fixed, solely on a regional basis, but the industry committee shall consider among other relevant factors the following:

(1) competitive conditions as affected by transportation, living, and production costs;

(2) the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and

(3) the wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

No classification shall be made under this section on the basis of age or sex.

(d) The industry committee shall file with the Secretary a report containing its findings of fact and recommendations with respect to the matters referred to it. Upon the filing of such report, the Secretary shall publish such recommendations in the Federal Register and shall provide by order that the recommendations contained in such report shall take effect upon the expiration of fifteen days after the date of such publication.

(e) Orders issued under this section shall define the industries and classifications therein to which they are to apply, and shall contain such terms and conditions as the Secretary finds necessary to carry out the purposes of such orders, to prevent the circumvention or evasion thereof, and to safeguard the minimum wage rates established therein.

(f) Due notice of any hearing provided for in this section shall be given by publication in the Federal Register and by such other means as the Secretary deems reasonably calculated to give general notice to interested persons.

ATTENDANCE OF WITNESSES

SEC. 9. For the purpose of any hearing or investigation provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U.S.C., 1934 edition, title 15, secs. 49 and 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary of Labor and the industry committees.

COURT REVIEW

SEC. 10. (a) Any person aggrieved by an order of the Secretary issued under section 8 may obtain a review of such order in the United States Court of Appeals for any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the entry of such order a written petition praying that the order of the Secretary be modified or set aside in whole or in part. A copy of such petition shall forthwith be transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court a transcript of the record of the industry committee upon which the order complained of was entered, as provided in section 2112 of Title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part, so far as it is applicable to the petitioner. The review by the court shall be limited to questions of law, and findings of fact by such industry committee when supported by substantial evidence shall be conclusive. No objection to the order of the Secretary shall be considered by the court unless such objection shall have been urged before such industry committee or

unless there were reasonable grounds for failure so to do. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence may materially affect the result of the proceeding and that there were reasonable grounds for failure to adduce such evidence in the proceedings before such industry committee, the court may order such additional evidence to be taken before an industry committee and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. Such industry committee may modify the initial findings by reason of the additional evidence so taken, and shall file with the court such modified or new findings which if supported by substantial evidence shall be conclusive, and shall also file its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order. The court shall not grant any stay of the order unless the person complaining of such order shall file in court an undertaking with a surety or sureties satisfactory to the court for the payment to the employees affected by the order, in the event such order is affirmed, of the amount by which the compensation such employees are entitled to receive under the order exceeds the compensation they actually receive while such stay is in effect.

INVESTIGATIONS, INSPECTIONS, RECORDS, AND HOMEWORK REGULATIONS

SEC. 11. (a) The Secretary of Labor or his designated representatives may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any industry subject to this Act, and may enter and inspect such places and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this Act, or which may aid in the enforcement of the provisions of this Act. Except as provided in section 12 and in subsection (b) of this section, the Secretary shall utilize the bureaus and divisions of the Department of Labor for all the investigations and inspections necessary under this section. Except as provided in section 12, the Secretary shall bring all actions under section 17 to restrain violations of this Act.

(b) With the consent and cooperation of State agencies charged with the administration of State labor laws, the Secretary of Labor may, for the purpose of carrying out his functions and duties under this Act, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may reimburse such State and local agencies and their employees for services rendered for such purposes.

(c) Every employer subject to any provision of this Act or of any order issued under this Act shall make, keep, and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him, and

shall preserve such records for such periods of time, and shall make such reports therefrom to the Secretary as he shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this Act or the regulations or orders thereunder.

(d) The Secretary is authorized to make such regulations and orders regulating, restricting, or prohibiting industrial homework as are necessary or appropriate to prevent the circumvention or evasion of and, to safeguard the minimum wage rate prescribed in this Act, and all existing regulations or orders of the Administrator relating to industrial homework are hereby continued in full force and effect.

CHILD LABOR PROVISIONS

SEC. 12. (a) No producer, manufacturer, or dealer shall ship or deliver for shipment in commerce any goods produced in an establishment situated in the United States in or about which within thirty days prior to the removal of such goods therefrom any oppressive child labor has been employed: *Provided*, That any such shipment or delivery for shipment of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer, manufacturer, or dealer that the goods were produced in compliance with the requirements of this section, and who acquired such goods for value without notice of any such violation, shall not be deemed prohibited by this subsection: *And provided further*, That a prosecution and conviction of a defendant for the shipment or delivery for shipment of any goods under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipments or deliveries for shipment of any such goods before the beginning of said prosecution.

(b) The Secretary of Labor, or any of his authorized representatives, shall make all investigations and inspections under section 11(a) with respect to the employment of minors, and, subject to the direction and control of the Attorney General, shall bring all actions under section 17 to enjoin any act or practice which is unlawful by reason of the existence of oppressive child labor, and shall administer all other provisions of this Act relating to oppressive child labor.

(c) No employer shall employ any oppressive child labor in commerce or in the production of goods for commerce, *or in any enterprise engaged in commerce or in the production of goods for commerce.*

EXEMPTIONS

SEC. 13. (a) The provisions of sections 6 and 7 shall not apply with respect to—

(1) any employee employed in a bona fide executive, administrative, [professional, or local retailing] *or professional capacity*, or in the capacity of outside salesman (as such terms are defined and delimited *from time to time* by regulations of the Secretary [of Labor] *subject to the provisions of the Administrative Procedure Act, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative*

activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities): or

(2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is [located.] located, if such establishment—

(i) is not in an enterprise described in section 3(s), or

(ii) is in such an enterprise and is a hotel, motel, restaurant, motion picture theater, or an amusement or recreational establishment that operates on a seasonal basis, or

(iii) is in such an enterprise and is a hospital, or an institution which is primarily engaged in the care of the sick, the aged, the mentally ill or defective, residing on the premises of such institution, or a school for physically or mentally handicapped or gifted children, or

(iv) is in such an enterprise and has an annual dollar volume of sales (exclusive of excise taxes at the retail level which are separately stated) which is less than \$250,000.

A "retail or service establishment" shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

(3) any employee employed by any establishment (except an establishment in an enterprise described in section 3(s)(2)) engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment's annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, commercial, or communications business: *Provided further*, That neither the exemption in this paragraph nor in paragraph (2) shall apply to any employee of a hotel, motel, or restaurant who is engaged in laundering, cleaning, or repairing clothing or fabrics where such services are not performed exclusively for such hotel, motel, or restaurant: *Provided further*, That this exemption shall not apply to any employee of any such establishment which has an annual dollar volume of sales of such services of \$250,000 or more and which is engaged in substantial competition in the same metropolitan area with an establishment less than 50 per centum of whose annual dollar volume of sales of such services is made within the State in which it is located; or

(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or

(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms

of animal and vegetable life, *or in the first processing, canning, or packing such marine products at sea as an incident to or in conjunction with such fishing operations*, including the going to and returning from work [and including employment in the loading, unloading, or packing of such products for shipment or in propagating, processing (other than canning), marketing, freezing, curing, storing, or distributing the above products or byproducts thereof;] *and loading and unloading when performed by any such employee; or*

(6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agriculture purposes; or

(7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or

(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where printed and published or counties contiguous thereto; or

[(9) any employee of a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, not included in other exemptions contained in this section; or]

(9) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or

(10) any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or

(11) any switchboard operator employed [in a] *by an independently owned public telephone [exchange] company* which has not more than seven hundred and fifty stations; or

(12) any employee of an employer engaged in the business of operating taxicabs; or

(13) any employee or proprietor in a retail or service establishment [as defined in] *which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply*, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

(14) any employee employed as a seaman *on a vessel other than an American vessel*; or

(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or trans-

porting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve.

(b) The provisions of section 7 shall not apply with respect to—

(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

(4) any employee employed in the canning, *processing, marketing, freezing, curing, storing, packing for shipment, or distributing* of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or

(5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

(6) *any employee employed as a seaman; or*

(7) *any employee of a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, not included in other exemptions contained in this section; or*

(8) *any employee of a gasoline service station; or*

(9) *any employee employed as an announcer, news editor, or chief engineer by a radio or television station having its major studio in a city or town which has a population of not more than fifty thousand, according to the latest available decennial census figures as compiled by the Bureau of the Census, if such city or town is not part of a standard metropolitan statistical area (as defined and designated by the Bureau of the Budget) having a total population in excess of fifty thousand; or*

(10) *any employee of an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if (A) the annual gross volume of sales of such enterprise is not more than \$1,000,000 exclusive of excise taxes, and (B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and (C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale; or*

(11) *any employee of a retail or service establishment primarily engaged in the business of selling automobiles, trucks, or farm implements; or*

(12) *any employee employed as a driver or driver's helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Secretary shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum workweek applicable to them under section 7(a).*

(c) The provision of section 12 relating to child labor shall not apply with respect to any employee employed in agriculture outside of school hours for the school district where such employee is living

while he is so employed, or to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions.

(d) The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer.

(e) The provisions of section 7 shall not apply with respect to employees for whom the Secretary of Labor is authorized to establish minimum wage rates as provided in section 6(a)(3), except with respect to employees for whom such rates are in effect; and with respect to such employees the Secretary may make rules and regulations providing reasonable limitations and allowing reasonable variations, tolerances, and exemptions to and from any or all of the provisions of section 7 if he shall find, after a public hearing on the matter, and taking into account the factors set forth in section 6(a)(3), that economic conditions warrant such action.

(f) The provisions of sections 6, 7, 11, and 12 shall not apply with respect to any employee whose services during the workweek are performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the following: a State of the United States; the District of Columbia; Puerto Rico; the Virgin Islands; Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (ch. 345, 67 Stat. 462); American Samoa, Guam; Wake Island; and the Canal Zone.

LEARNERS, APPRENTICES, AND HANDICAPPED WORKERS

SEC. 14. The Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for (1) the employment of learners, of apprentices, and of messengers employed primarily in delivering letters and messages, *and of full-time students outside of their school hours in any retail or service establishment: Provided, That such employment is not of the type ordinarily given to a full-time employee,* under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe, and (2) the employment of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, under special certificates issued by the Secretary, at such wages lower than the minimum wage applicable under section 6 and for such period as shall be fixed in such certificates.

PROHIBITED ACTS

SEC. 15. (a) After the expiration of one hundred and twenty days from the date of enactment of this Act, it shall be unlawful for any person—

(1) to transport, offer for transportation, ship, deliver, or sell in commerce, or to ship, deliver, or sell with knowledge that shipment or delivery or sale thereof in commerce is intended, any goods in the production of which any employee was employed in violation of section 6 or section 7, or in violation of any regulation or order of the Secretary of Labor issued under section 14; except that no provision of this Act shall impose any liability upon

any common carrier for the transportation in commerce in the regular course of its business of any goods not produced by such common carrier, and no provision of this Act shall excuse any common carrier from its obligation to accept any goods for transportation; and except that any such transportation, offer, shipment, delivery, or sale of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer that the goods were produced in compliance with the requirements of the Act, and who acquired such goods for value without notice of any such violation, shall not be deemed unlawful;

(2) to violate any of the provisions of section 6 or section 7, or any of the provisions of any regulation or order of the Secretary issued under section 14;

(3) to discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding, or has served or is about to serve on an industry committee;

(4) to violate any of the provisions of section 12;

(5) to violate any of the provisions of section 11(c), or any regulation or order made or continued in effect under the provisions of section 11(d), or to make any statement, report, or record filed or kept pursuant to the provisions of such section or of any regulation or order thereunder, knowing such statement, report, or record, to be false in a material respect.

(b) For the purposes of subsection (a)(1) proof that any employee was employed in any place of employment where goods shipped or sold in commerce were produced, within ninety days prior to the removal of the goods from such place of employment, shall be prima facie evidence that such employee was engaged in the production of such goods.

PENALTIES

SEC. 16. (a) Any person who willfully violates any of the provisions of section 15 shall upon conviction thereof be subject to a fine of not more than \$10,000, or to imprisonment for not more than six months, or both. No person shall be imprisoned under this subsection except for an offense committed after the conviction of such person for a prior offense under this subsection.

(b) Any employer who violates the provisions of section 6 or section 7 of this Act shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages. Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. *The right provided by this subsection to bring an action by or on behalf of any employee,*

and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection.

(c) The Secretary of Labor is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or section 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. When a written request is filed by any employee with the Secretary claiming unpaid minimum wages or unpaid overtime compensation under section 6 or section 7 of this Act, the Secretary may bring an action in any court of competent jurisdiction to recover the amount of such claim: *Provided*, That this authority to sue shall not be used by the Secretary in any case involving an issue of law which has not been settled finally by the courts, and in any such case no court shall have jurisdiction over such action or proceeding initiated or brought by the Secretary if it does not involve any issue of law not so finally settled. The consent of any employee to the bringing of any such action by the Secretary, unless such action is dismissed without prejudice on motion of the Secretary, shall constitute a waiver by such employee of any right of action he may have under subsection (b) of this section for such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. Any sums thus recovered by the Secretary on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts. In determining when an action is commenced by the Secretary under this subsection for the purposes of the two-year statute of limitations provided in section 6(a) of the Portal-to-Portal Act of 1947, it shall be considered to be commenced in the case of any individual claimant on the date when the complaint is filed if he is specifically named as a party plaintiff in the complaint, or if his name did not appear, on the subsequent date on which his name is added as a party plaintiff in such action.

(d) In any action or proceeding commenced prior to, on, or after the date of enactment of this subsection, no employer shall be subject to any liability or punishment under this Act or the Portal-to-Portal Act of 1947 on account of his failure to comply with any provision or provisions of such Acts (1) with respect to work heretofore or hereafter performed in a workplace to which the exemption in section 13(f) is applicable, (2) with respect to work performed in Guam, the Canal Zone, or Wake Island before the effective date of this amendment of subsection (d), or (3) with respect to work performed in a possession named in section 6(a)(3) at any time prior to the establish-

ment by the Secretary, as provided therein, of a minimum wage rate applicable to such work.

INJUNCTION PROCEEDINGS

SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands and the District Court of Guam, shall have jurisdiction, for cause shown, to restrain violations of section 15[*: Provided, That no court shall have jurisdiction, in any action brought by the Secretary of Labor to restrain such violations, to order the payment to employees of unpaid minimum wages or unpaid overtime compensation or an additional equal amount as liquidated damages in such action*], *including in the case of violations of section 15(a)(2) the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947).*

RELATION TO OTHER LAWS

SEC. 18. No provision of this Act or of any order thereunder shall excuse noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this Act or a maximum workweek lower than the maximum workweek established under this Act, and no provision of this Act relating to the employment of child labor shall justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established under this Act. No provision of this Act shall justify any employer in reducing a wage paid by him which is in excess of the applicable minimum wage under this Act, or justify any employer in increasing hours or employment maintained by him which are shorter than the maximum hours applicable under this Act.

SEPARABILITY OF PROVISIONS

SEC. 19. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Additional Provisions of Fair Labor Standards Amendments of 1961

STUDY OF AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS

SEC. 12. *The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(c), 13(a)(10), and 7(b)(3), and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.*

EFFECTIVE DATE

SEC. 13. *The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided in such amendments and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act.*

MINORITY VIEWS OF SENATORS BARRY GOLDWATER AND EVERETT M. DIRKSEN

I. INTRODUCTION

The bill to amend the Fair Labor Standards Act reported by the committee is one which we cannot support. We shall point out below our objections to many of the specific provisions in the committee bill, but basically, our opposition is directed at the following four major defects in the proposed measure.

1. Increase in the minimum wage rate

Our opposition to any increase in the minimum wage rate at this time is based on principles of sound economics and our realization of the necessarily inflationary effect of any increase upon the economy as a whole. Wage increases imposed by legislative fiat without any regard for their economic consequences would curtail employment, reduce job opportunities, and result ultimately in price rises which the consumer must pay for goods and services. We urge, therefore, that the present \$1 an hour minimum remain unchanged.

2. Application of the Fair Labor Standards Act to purely local enterprises

The act, heretofore, has been applicable only to employees engaged in interstate commerce or the production of goods for interstate commerce. The committee bill, while retaining this narrow coverage concept, extends coverage to all employees of certain categories of business enterprise if such an enterprise "is engaged in commerce or the production of goods for commerce" which is defined as any enterprise in the activities of which employees are engaged in interstate commerce or the production of goods for interstate commerce including employees handling, selling, or otherwise working on goods that have been moved in or produced for interstate commerce by any person, subject, in some categories, to certain dollar volume limitations which will be discussed below. The bill which passed the Senate last year (H.R. 12677) extended coverage to employees in certain types of enterprise if such enterprise were engaged in any activity "affecting commerce." The courts have construed the phrase "affecting commerce" as constituting the broadest possible scope authorized by the Constitution of the power of Congress to regulate interstate commerce. We are of the opinion that the coverage concept contained in the committee bill is even broader than the concept of "affecting commerce."

We are opposed to any change in the present coverage provisions of the act. The proposal to extend coverage in this fashion would place under Federal control thousands of small business establishments which are primarily local in character and which should not be subject to regulation by the Federal Government if our Federal-State system is to be maintained.

3. *The elimination or narrowing of exemptions from coverage in the present law*

Both in the enactment of the original Fair Labor Standards Act in 1938, and its major amendment in 1949, Congress recognized that even the narrow coverage concept of the law would result in hardship and inequity applied to certain specific industries or economic activities. These industries and activities are of such a nature and are carried on under such circumstances that to subject them to the act would be to create complex, even insoluble, problems, jeopardizing the effective functioning as well as the solvency of many enterprises in these areas. Cognizant of the difficulties, Congress granted exemptions of various kinds, tailored to suit the problems peculiar to these industries and activities. Thus, employees in retail, service, cleaning and laundering establishments, in agriculture, as well as seamen and others, were exempted from the minimum wage and overtime provisions of the act, as were employees of small newspapers, local, suburban, and inter-urban bus and trolley lines, and small telephone exchanges. Employees in certain industries were exempted from the overtime provisions of the act but made subject to the minimum wage requirements; others were exempted from overtime for a limited period in each year because their industries were seasonal in nature.

Congress has substantial grounds for granting an exemption in each specific case. Essentially, Congress recognized that the failure to provide these exemptions would result in economic injury to the particular industry which would inevitably result in a decline of employment therein, thus defeating the objectives of the legislation. The committee bill ignores these considerations either by eliminating or seriously narrowing many of these necessary exemptions.

4. *Injurious effect on small business*

The dollar volume standards provided in the committee bill are designed to create the impression that the minimum wage and overtime pay requirements are directed exclusively at "big business" and that "small business" falling below these dollar standards will continue to be free from the act's requirements and will thereby be unaffected by the economic effects of the extended coverage. Actually, this is mere surface appearance; the reality is otherwise. A small business, in all of its activities, competes directly with large enterprises in the same industry; it also competes with all other industries in the same labor market for the available supply of labor.

If the larger enterprises are compelled by law to pay higher wages, small business operating in the same labor market must pay the same rates in order to secure or retain employees. Thus, the exemptions or the freedom from coverage the committee bill seems to extend to some small business is nothing but delusion.

II. HISTORY OF FAIR LABOR STANDARDS ACT AMENDMENTS

The enactment of the Walsh-Healey Act in 1936 provided that certain Government contracts must contain provisions for paying the prevailing rate of wages. This was the first attempt by the Congress to place a floor under wages in interstate commerce. Then on June 25, 1938, one of the Nation's basic labor laws was enacted—the Fair Labor Standards Act. This act set forth the statutory minimum wage, overtime pay requirements, and child labor provisions that

cover employes engaged in interstate commerce or in the production of goods for interstate commerce.

The 1938 act set the Federal minimum wage rate at 25 cents an hour from October 1938 to October 1939, 30 cents from October 1939 to October 1945, and 40 cents after October 1945. The 40-cent level was established even prior to October 1945 through industry committees, groups composed of employers, employees, and public representatives who studied the wage situations of different industries and recommended the highest minimum, up to 40 cents an hour, that would not substantially curtail employment.

The Congress in adopting the Fair Labor Standards Act was concerned with—

eliminating labor conditions detrimental to the maintenance of minimum standards of living necessary to health, efficiency, and general well-being of workers.¹

It was not contemplated that this legislation would be applied to those already receiving wages far above the minimum which result from genuine free collective bargaining.

President Roosevelt, in asking the Congress to enact the Fair Labor Standards Act, stated:

There are many purely local pursuits and services which no Federal legislation can effectively cover.²

Similarly, Senator Black (now Justice Black of the U.S. Supreme Court), who sponsored the original wage and hour bill in the Senate, said:

Businesses of a purely local type which serve a particular local community, and which do not send their products into the stream of interstate commerce, can be better regulated by the laws of the communities in which the business units operate.³

These statements are as true today as they were in 1937-38.

Since 1945 the minimum wage has been increased by the Congress from 40 cents an hour to a dollar an hour, or 250 percent of the 1945 base. During this same period the consumer price index has risen so that it represents 160 percent of the 1945 base. In fact, if we go back to 1938 when the Minimum Wage Act was passed, the minimum wage has increased to 400 percent of the 25-cent level adopted by the Congress at that time, while the consumer price index is only 200 percent of the 1938 base.

In appraising this legislation, it is important to remember that the relatively small number of union members in 1938 has grown to over 16 million today. Collective bargaining currently establishes the wage levels which must be met by all employers if they are to compete for workers. Those who would be directly affected by legislation raising the minimum are usually in areas of substantial unemployment where potential employers are confronted with special problems. Increased labor costs in such situations would likely increase unemployment and cause hardship for those whom this legislation is intended to benefit.

¹ "To Amend the Fair Labor Standards Act," hearings before the Subcommittee on Labor and Public Welfare, U.S. Senate, 86th Cong., 1st sess., May 8, 1959.

² *Ibid.*, p. 151.

³ *Ibid.*, p. 151.

The 1949 amendments to the Fair Labor Standards Act increased the minimum rate still further to 75 cents an hour, effective January 25, 1950, and redefined "commerce" as "trade, commerce, transportation, transmission, or communication among the several States or *between any State and any place outside thereof*" in lieu of "*from any State to*".

In 1955 extensive hearings were held by the House Education and Labor Committee on legislation to revise the Fair Labor Standards Act. Proposals were considered to raise the minimum wage and also to extend coverage of the act.

In enacting legislation to amend the Fair Labor Standards Act so as to achieve the greatest well-being for as many people as possible, the Department of Labor testified that—

The maximum increase in the minimum wage that can be undertaken depends on the impact the increase would have on low-wage segments of industry where it must be paid. If the increase is too large to be absorbed without disruptive changes, the results are either unemployment in the affected firms or price increases. If the market will not take price increases, the low-paid workers whose jobs are at stake lose instead of gaining. If prices rise and the wage increase is paid through inflation, the real cost is borne by low-paid workers outside the scope of Federal regulation and by pensioners and others in similar status.⁴

Although President Eisenhower recommended an expansion of coverage and an increase to 90 cents an hour, and despite the strong efforts by labor spokesmen in behalf of their case for a \$1.25 minimum wage, the 84th Congress enacted legislation to raise the rate to \$1, effective March 1, 1956, with no provisions for extension of coverage under the law.

In 1957 the Subcommittee on Labor of the Senate Labor and Public Welfare Committee held public hearings during February and March to consider only the extension of coverage under the act. On February 25, 1957, the Secretary of Labor made the following statement before the subcommittee:

I recommend that the act be amended to bring within the protection of a minimum wage employees now excluded who work in business enterprises that are substantially engaged in interstate commerce. Their operation depends on substantial and continuing engagement in interstate commerce, and such enterprises are an integral and essential part of the interstate commerce of the Nation * * *.⁵

It should be emphasized that the Secretary of Labor confined his recommendations to enterprises which are "an integral and essential part of the interstate commerce of the Nation."

Several other proposals were advanced during the 85th Congress. These included the extension of coverage to approximately 10 million employees who were "engaged in any activity affecting commerce." Ultimately, such a concept would virtually include any employment

⁴ "Proposed Legislation To Increase the Minimum Wage," hearings before the House Education and Labor Committee, House of Representatives, 84th Cong., 1st sess., June 7, 1955, p. 132.

⁵ "Proposals for Broadening Minimum Wage Coverage of the Fair Labor Standards Act," hearings before the Subcommittee on Labor of the Committee on Labor and Public Welfare, U.S. Senate, 85th Cong., 1st sess., Feb. 25, 1957.

regardless of its character. Another proposal would have extended coverage to nearly 6 million employees by broadening the term "commerce" to include "any closely related process or occupation directly essential" to commerce.

The Secretary of Labor made the following comment on these proposals:

* * * this is broader than any language ever used by the Congress for application of the commerce clause of the Constitution. In 1938 and again in 1949 the extension of the Fair Labor Standards Act to activities "affecting" commerce was considered but not adopted by the Congress. The proposal here is as expansive as the "affecting" language then considered. I believe that there are still very good reasons for rejecting such an approach to coverage.

Under the Fair Labor Standards Act, the line of coverage must be drawn as precisely and definitely as it can be so that employers and employees may understand its application from the facts that they know. Wages have to be paid each pay period, and if the law applies, it must be complied with at that time.

For this reason the current proposals to include new and indefinitely elastic boundaries in the act's definitions of interstate commerce do not appear to be practicable.⁶

III. THE HEARINGS

The Subcommittee on Labor of the Committee on Labor and Public Welfare held 10 days of hearings during May and June of 1959 and 5 days in February and March of 1961. Many witnesses appeared, representing various groups, including labor, agriculture, transportation, communications, timber, manufacturing, fisheries, merchant marine, retail and service trades, and individual small businessmen. For the most part, the groups listed above were opposed to increasing the minimum wage or extending the coverage of the law. Representatives appearing on behalf of labor unions gave full support to broadening the coverage and raising the minimum wage to \$1.25 an hour.

IV. THE MAJOR SHORTCOMINGS OF THE COMMITTEE BILL

In considering amendments to the Fair Labor Standards Act, which will result in the maximum benefit to the workers of this country, there are four factors that must be kept in proper relationship to each other: First, the amount of the minimum wage in terms of living standards of employees and costs to employers; second, the possible effect of increasing this minimum in terms of substantially curtailing the employment or the earnings of those covered by the act; third, the extent of coverage viewed in relation to the proper role of the Federal Government in activities which have traditionally been regarded as local and not directly related or essential to interstate commerce; and fourth, the injurious effect on small business.

⁶ "Proposals for Broadening Minimum Wage Coverage of the Fair Labor Standards Act," hearings before the Subcommittee on Labor of the Committee on Labor and Public Welfare, U.S. Senate, 85th Cong., 1st sess., Feb. 25, 1957.

There is a definite tendency to concentrate on, or single out, one of these elements and ignore the others. However, the supporters of the committee bill apparently believe that American workers will benefit from simultaneously providing substantial increases both in the minimum wage rate and in the extent of coverage. Marginal businesses throughout the country traditionally have paid the lowest wages and also experience the lowest earnings.

1. Increase in minimum wage rate

The committee bill proposes that the minimum statutory wage be increased in a series of increments so that it would be \$1.25 an hour after 2 years for some workers and after 3 years for all the others to whom the act is extended.

Section 4(d) of the Fair Labor Standards Act directs the Secretary of Labor to inform the Congress of his evaluation of minimum wages under the act and of his views as to necessary changes in the act to further the purposes of the legislation. In accordance with the requirements of this section, the Secretary transmitted on January 31, 1959, a report which set forth information concerning the operation and effect of the Fair Labor Standards Act.

In the letter of transmittal, the Secretary stated:

* * * A further increase in the minimum at this time would involve the risk of substantially curtailing employment or earning power in the low-wage industries, which the act states is to be avoided.

The minimum ought to be raised as rapidly as possible, but with due regard for the economic capacity of low-wage industries to make adjustments to progressively higher standards. Because of the effect it would have on the economy, especially in the low-wage industries, I do not recommend an increase in the minimum wage at this time. * * * ⁷

The Wage and Hour Division of the Department of Labor undertook a major study of the \$1 minimum wage based on a survey program conducted at the time the \$1 minimum became effective in March 1956 and again 1 year later in 1957.

The findings of these surveys and some of the economic factors relevant to the question of raising the \$1 minimum at that time were covered in the Secretary's letter transmitting this report to the Congress. It stated:

The Department's survey program disclosed substantial effects on wage payments in the low-wage manufacturing industries in 1956-57, resulting from the increase of the minimum wage to \$1 an hour, effective March 1, 1956. In 9 of the 18 industry segments studied the wage increases required to bring all workers below \$1 up to that figure increased the wage bill by more than 10 percent. In these studies the industry segments were divided, wherever the data were adequate, into low-impact and high-impact groups, according to the magnitude of the direct wage bill increase required by the new minimum. In 6 of the 14 industries

⁷ Report submitted to the Congress in accordance with the requirements of sec. 4(d) of the Fair Labor Standards Act, letter of transmittal, Jan. 31, 1959, p. 3.

in which there are such data the required increase exceeded 20 percent in the high-impact groups.

The wage increases resulting from the \$1 minimum were not only these direct or required increases, but also increases to workers already receiving more than the minimum. The surveys indicate that these indirect increases on the effective date mounted in the median situation to approximately 40 percent of the directly required increases in the low-wage industries.

One notable survey finding is that existing wage differentials of all kinds—between high- and low-wage plants, between large and small plants, between union and non-union plants, between large and small communities, between high- and low-wage occupations, etc.—were substantially narrowed as an immediate consequence of the \$1 minimum. These differentials tended to be restored, although only partially, during the following year.

The surveys indicated that the \$1 minimum had effects in raising wages in exempt portions of covered industries and to some extent also in employments not covered by the act.

The surveys also disclosed that the \$1 minimum stimulated employers to reduce costs through productivity improvement as well as raising of production quotas, especially in piece-rate industries, dismissal of least efficient workers, and elimination of premium overtime. There were also indications of some shifting to different price lines, substitution of cheaper materials, and increased prices. The latter was not always possible, but sales and employment were maintained in many situations because higher prices offset rising wage costs under generally favorable demand conditions.

Nonetheless, the surveys present evidence of unemployment apparently related to the increase in the \$1 minimum, despite the fact that the economy was rising at that time and there were increases in the general level of prices which facilitated adjustment to the \$1 minimum. Employment tended to decline in the low-wage industries, and in most cases more markedly in those segments of the low-wage industries where wage rates had been increased most * * *.

The results of the studies undertaken by the Department suggests that the \$1 minimum had substantial impact in the low-wage industries and that there is still a heavy concentration of workers at or near the minimum in the low-wage industries. In view of these conclusions, it is not determinative that prices, the wage level generally, and productivity have increased in the meantime * * *.

* * * The minimum should be increased when it appears evident that it can be done without requiring generally rising prices to help effect the higher wages.⁸

A very recent survey in the State of Pennsylvania demonstrates even more conclusively the adverse effects of minimum rates of 90 cents and \$1 when applied to retailing. This survey was conducted by the Pennsylvania Retailers' Association among retailers in com-

⁸ Op. cit., pp. 2, 3, 4.

munities outside of Philadelphia and Pittsburgh. Prior to January 15, 1961, under Pennsylvania State law, retailers in Philadelphia and Pittsburgh were subject to a \$1 minimum wage, in communities with populations of more than 10,000 to an 85-cent minimum, and in towns of less than 10,000 to a 75-cent minimum. Effective on that date, the rate for retailers in communities over 10,000 went to \$1, and for those under 10,000 to 90 cents. The Pennsylvania Retailers Association sent questionnaires to about 840 of its member stores outside of Philadelphia and Pittsburgh to determine the unemployment impact of the increased minimum on these establishments. One hundred and fifty-three replied with the following results: During the year prior to the increase in the State's minimum wage for retailers, employment decreased between 2 and 3 percent. But 3 weeks after the higher minimum wage became effective, employment in the stores surveyed had decreased 6 percent. This compares with a drop of 2.4 percent in total employment in the entire State for the same month.⁹

The Department of Labor's report clearly shows that the increase in the minimum wage resulted in "dismissal of least efficient workers" and "increased prices." The Pennsylvania survey just as plainly reveals that the increase in the minimum wage resulted in a sharply accelerated rise in unemployment within a very short period of time among retailers subject to the new minimum rate.

The risk of curtailing employment through increasing the minimum rate at this time is far greater than it was in 1956-57. Unemployment is considerably higher and the pinch of foreign competition far more acute. The industries most significantly affected by any increase in the statutory rate are generally highly competitive and operate on small profit margins. The Congress must carefully weigh the effect of mandatory cost increases in terms of the operating margins of the affected industries based on their competitive position in the marketplace. The country is still faced not only with a substantial volume of unemployment and increased foreign competition but with inflationary pressures, and the Congress must consider the effect of an increase in the minimum wage in terms of its impact on the overall economy. The nature of the problem is illustrated in a letter addressed to the chairman of the Committee on Labor and Public Welfare by Adm. John S. McCain who presented the views of the Department of Defense in reference to S. 1046. The following is taken from Admiral McCain's letter to the chairman:

As indicated in its title, S. 1046 would broaden the coverage of the Fair Labor Standards Act of 1938, as amended, and would increase the minimum wage of employees covered by the act from \$1 to \$1.25 per hour. The Department of the Navy, in behalf of the Department of Defense, opposes certain features of S. 1046, but defers to the Department of Labor and the Bureau of the Budget on the broad economic and labor policies involved.

The Department of Defense points out that subject bill would place a certain number of the Department's contractors under coverage of the Fair Labor Standards Act who are not now covered by the act because they are not engaged in commerce or the production of goods for commerce.

⁹ "Amendments to the Fair Labor Standards Act," hearings before the Subcommittee on Labor of the Committee on Labor and Public Welfare, U.S. Senate, 87th Cong., 1st sess., Mar. 3, 1961, p. 317 et seq.

Also, an increase of the minimum wage under the Fair Labor Standards Act would have an upward influence upon all wages generally. Enactment of S. 1046 would, therefore, have a budgetary impact upon the Department of Defense by virtue of increased labor costs to contractors which would inevitably be passed on to the Department. The amount of such increased costs is not ascertainable to any realistic degree.¹⁰

Any increase in the statutory minimum wage must ultimately be reflected in an increase in all wages since unions have an obligation to their members to preserve existing differentials.

The first witness heard in the 1959 hearings was George Meany, president of the AFL-CIO, who has appeared several times in support of an increased minimum wage and an extension of the act's coverage. A review of his testimony shows that Mr. Meany is well aware of the fact that any minimum wage set by Congress provides a floor for all wages and necessitates wage increases for all workers to maintain the differential for skilled workers. He said:

Let us begin by recognizing that the earnings of millions of American workers are keyed directly to the Federal minimum wage. * * *¹¹

Mr. Max Greenberg, president, Retail, Wholesale, & Department Store Union, AFL-CIO, also said:

* * * There obviously will be some upward pressure by those people who are today receiving \$1.25 so that they will move forward. I am sure we want something like that to happen.

The reason we today consider the retail worker on the lowest rung of the economic ladder is because of the fact that we have so many who are making less than a dollar. *If everybody was making a dollar and a quarter, obviously, when we went in to bargain for those people whom we have organized, we would be able to get them a fairly attractive wage.* [Emphasis supplied.]¹²

One example which demonstrates that this is not a theoretical consideration is contained in the current collective bargaining agreement between local 221 of the International Ladies Garment Workers Union, AFL-CIO, and its employers. The January-February 1961 issue of Roundup, local 221's official publication, describes the various terms and provisions of this agreement. This significant paragraph appears in the description:

The new agreement also provides that should the Federal minimum be raised the union minimum will be at least 15 cents above the Federal minimum wage.

The proponents of an increase in the minimum wage accept rising price levels as a necessary corollary of this legislation. The following colloquy between Senator Goldwater and Mr. Meany is significant:

Senator GOLDWATER. * * * Now, we are talking about a \$1.25 minimum. I do not care what the figure is—\$1.50 or

¹⁰ "To Amend the Fair Labor Standards Act," hearings before the Subcommittee on Labor and Public Welfare, U.S. Senate, 86th Cong., 1st sess., May 7, 1959, p. 15.

¹¹ 1959 hearings, op. cit., p. 20.

¹² Ibid., p. 107.

\$1.10, whatever it is. How long would it be before that would become an unbearably low minimum, since we would have to raise wages all the way up the scale—how long would it be before \$1.25 became the 75 cents or 50 cents of today?

Mr. MEANY. I do not know how long it would be, but it would come inevitably. It has to come under our system and our economy. And if you look over the history of the economic progress here in America, I will admit it has got to come. We have a high-wage, high-price economy, and under that sort of an economy we have the best standards in the world, comparatively speaking.

Now, you say how long will it be before the \$1.25 becomes the 75 cents of 10 years ago. I don't know. But to me it is inevitable that it will come.¹³

Mr. George H. Kimball, who appeared on behalf of the National Retail Merchants Association, in his testimony before the subcommittee in 1959, said:

The inflationary aspect of an increased or extended Federal minimum wage also must be carefully examined. The imposition of a Federal minimum wage affects not only marginal workers earning less than the minimum but all workers, if existing wage differentials are to be maintained.

We have an expression up there in the seaport where I live, "When the tide comes in all the costs go up." So, if you put in a minimum wage of \$1.25 an hour for a beginner, a starter, or a learner, then your experienced people, you have got to pay them \$2 or \$2.50 an hour.

President Eisenhower a year ago asked us to try to keep our cost of business down and try not to raise our prices. Now, there are only one or two things that could possibly happen, if this wage-and-hour law does go through, affecting retailers; it would mean that we would have to raise our prices or curtail our services.

Under sound personnel administration, an employer cannot raise the wage floor for the minimum skilled employee without making comparable adjustments up the line for higher skilled and more experienced workers.

Thus, the entire payroll must be adjusted upward if a sound wage structure as well as good employee morale are to be maintained. This is especially true in a personalized service business such as retailing.¹⁴

Although statistical data to support Mr. Kimball's assertion is unavailable, there is one type of economic activity where an increase in the statutory minimum wage, must of necessity result in a wage rise at all levels above the minimum—where wages are paid on a piece-rate basis. If in any given operation, the piece rate is presently such that some workers earn less than the proposed minimum, a statutory increase in the latter would require the employer to raise the piece rate and all of his employees, even those earning well above the minimum would receive a corresponding increase in wages.

¹³ 1959 hearings, op. cit., p. 30.

¹⁴ 1959 hearings, op. cit., May 8, 1959, pp. 201-202.

A striking illustration of this is presented by the testimony of Benjamin O. Johnson, chairman of the board of SeaPak Corp. of St. Simons Island, Ga. Mr. Johnson appeared in opposition to the administration's 1961 bill, S. 895, as spokesman for the National Fisheries Institute, Inc. In the course of his testimony he described the operations of his own company which employs 813 people in the actual processing of the product. Of these 674 are women and 139 are men. Much of this work is done on a piece-rate basis. Mr. Johnson continued:

Every worker is started, the learners beginning rate is 65 cents an hour. On this piece-rate system the pay will vary from the low of 65 cents an hour to a high of upward of \$1.80 an hour by workers on the identical type of work.

I am sorry to relate, and it bears out a very, very important point that Senator Goldwater made earlier, that even in the lowest rate the productivity of those workers often does not add up to half the pay that they are taking.

Now, that, unfortunately, is the result of perhaps the evidence of two things, the fact that all workers by no means have the same adaptability or skill or the potential for development of skill.

Others will not produce.

So that fundamentally and what we are talking about in this legislation and one of the basic points, in some way I cannot help but feel that any legislation which is attempting to jack up pay which is not related to the economic value of the product or service involved, is fundamentally unsound.

Here we have a good example of it. We have strained, I think, to create a minimum wage of even 65 cents and yet we have scores of workers who, measured by the piece-rate system, do not earn half of that where others on the same piece-rate take home a dollar and a half an hour and up.¹⁵

If the committee bill were enacted, Mr. Johnson would be compelled to raise his piece-rate to a level permitting his 65 cents an hour employees to receive \$1 an hour, and eventually \$1.25 an hour. Such an increase in the piece-rate would necessarily extend to all of his employees, and hence the wages of those above the minimum would rise at all levels to a maximum of approximately \$3 per hour, eventually \$3.75, merely by virtue of the law's operation. It seems quite obvious that this could only result in the dismissal of the least skilled and hence the lowest paid employees in the enterprise, probably those unable to earn at least \$1 an hour under the present piece-rate.

We believe that high wages which result from increased productivity have provided Americans with the world's highest living standards. But high wages established by Government fiat and not accompanied by any increase in output can only result in economic disaster for all of us. Again, a colloquy between Senator Goldwater and Mr. Meany throws light on the direction in which this legislation would take us:

Senator GOLDWATER. You realize, of course, that if we do that, prices are going to go up. I think you mentioned

¹⁵ "Amendments to the Fair Labor Standards Act," hearings before the Subcommittee on Labor of the Committee on Labor and Public Welfare, U.S. Senate, 87th Cong., 1st sess., Mar. 6, 1961, pp. 407-408.

they would go up 1 percent. But they are going to go up. Now, that is an unnatural increase in price * * *.

Mr. MEANY. An unnatural increase in price?

Senator GOLDWATER. It is an unnatural increase in that it was created by an act of Government rather than an act of the economic system. And aren't we today in some of our industries having trouble with unnatural price increases created by unearned wage increases?

Mr. MEANY. I do not agree.

Senator GOLDWATER. You do not agree with that?

Mr. MEANY. No.

Senator GOLDWATER. Well, let me cite an example of France. France had a 5-percent-per-year increase in her economy, I think, between 1952 and 1958. And that is a goal, I think, that some economists and some people in politics want to achieve in this country by Government intervention in the economic system. But France had an increase in the cost of living of 25 percent between 1956 and 1958.

Now, are we going to get ourselves in the same fix that France was in when she suddenly stopped Government intervention and went back to the natural laws?¹⁶

Many of the newly covered employees would be in the retail and service industries. Again, the testimony by Mr. George H. Kimball is significant. He said:

Legislated wage increases ignore the basic economic principle that a true wage increase results only when accompanied by increased productivity and efficiency on the part of employees.

If not accompanied by increased productivity, they represent nothing more than added costs for the employer to assume. This added cost cannot be absorbed under existing retail margins without wiping away the profits of many stores and confronting others with serious operating losses.

The Division of Research of the Harvard Business School annually reports significant figures on department and specialty store operations. Figures for 1957 show a net profit after taxes for all department stores of only 2.8 percent.

It was less for smaller stores doing under a million dollars annual sales volume. In order to maintain existing profits or remain in business at all, retailers will be forced to raise the price of their goods to the consumer if competition permits. This invites then an inflationary effect, which not only nullifies the increase in purchasing power of those receiving the increased wages but also decreases the purchasing power of the public as a whole.

Therefore, the extension of the Federal minimum wage to retailing carries the risk of precipitating two dreaded consequences: inflation and unemployment.

Proposals to divide the retail and service industries on the wage-and-hour issue by placing some under the Federal

¹⁶ 1959 hearings, op. cit., May 7, 1959, pp. 30-31.

act while exempting others are both discriminatory and unsound.

Such proposals have been made many times before, but Congress wisely has seen fit to reject them. They are merely piecemeal or foot-in-the-door approaches designed to extend Federal controls in areas which properly rest with the individual States.

They are based on the assumption that size alone, whether measured by sales or number of units operated, represents ability and obligation to pay. They disregard the basic characteristics and competitive nature of retailing. No division of the industry, whether imposed on the basis of sales volume, number of units maintained, or type of ownership, can be effected without creating most serious inequities. Aside from the principles involved, such an approach would impose insurmountable administrative and enforcement problems. It is axiomatic that laws should not stand if they cannot be enforced.

Any such division of the trade would not only discriminate against the larger employer, but seriously injure the smaller employer, intended to be exempt.¹⁷

In many industries, increased productivity results from the equipment available to workers which increase their output. With most of the additional workers who would be covered by the provisions of the Fair Labor Standards Act, it is difficult to increase their productivity through the application of more capital equipment. Hence, their coverage will either jeopardize their jobs or result in inflationary wage increases.

We believe that the time has come when increased productivity should be reflected in lower prices which will benefit all of America's consumers rather than in wage increases which exclude retired people and many others from participating in the fruits of America's growing economy.

Mr. George Meany, president of the AFL-CIO, in his testimony before the subcommittee, showed a callous disregard for the jobs of those individuals who would be severed from the payroll if the minimum wage were raised beyond the point which an employer could meet.

He said:

Let's get practical about it. There is certainly a moral question here. Let me put it quite clearly. *If a business for any reason at all, must base its existence on paying less than a decent wage, I say it has no right to exist.* I think that is plain.¹⁸

And again, in the following colloquy:

MR. MEANY. *If his profit depended on paying less than the minimum wage, than I say he shouldn't be in business.*

Senator PROUTY. I am not talking about the minimum wage. I am talking about any wage, whether it be \$2 an hour or \$1.50 an hour. He has to show a profit in order to stay in business, and that means a profit on the services

¹⁷ 1959 hearings, op. cit., May 8, 1959, pp. 202, 203.

¹⁸ 1959 hearings, op. cit., May 7, 1959, p. 28.

performed by each one of his employees. Isn't that logical?

Mr. MEANY. Well, again I say I don't agree with you when you get below a minimum wage.

Senator PROUTY. *You are saying if he is unable to pay a minimum wage, he should go out of business*

Mr. MEANY. *That is right.* [Emphasis supplied.]¹⁹

Mr. Meany makes it abundantly clear that he is not concerned at all for those employees who would lose their jobs if their employer were forced out of business. We feel certain that employees who are the potential victims of Mr. Meany's program for unemployment do not share his views in this matter and whomever else he speaks for, he does not speak for them.

It should also be noted that Mr. Meany's position that an employer who cannot afford to pay the statutory minimum wage should go out of business (with the necessarily consequent loss of jobs to his employees) is distinctly in conflict with the stated policy of the minimum wage law itself. Section 2(b) of the act states:

It is hereby declared to be the policy of this act, through the exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries *without substantially curtailing employment or earning power.* [Emphasis supplied.]

The committee bill does not modify this declaration of policy and therefore we presume that its supporters do not intend to nullify it and sharply disagree with Mr. Meany. But we feel strongly that in retaining the stated congressional policy they are merely preserving the language while simultaneously destroying its content by means of many of the amendments contained in the committee bill.

In discussing an appropriate minimum wage, the impression has frequently been given that an entire family is basically supported by the wages earned by the recipient of the statutory minimum. We find that in many cases, those who are not covered under the existing law or those who are not earning the minimum wage, are new entrants into the labor market, part-time workers, or older people. The individuals affected are a constantly changing group.

The following colloquy between Senator Prouty and Mr. Meany is significant:

Senator PROUTY. * * * Another question: How did you arrive at this figure of \$1.25? Why wouldn't \$1.50 be better?

Mr. MEANY. Well, this is a field where you've got to make a little progress. It is quite obvious that the minimum standard, the minimum yearly wage required for what we call a decent, normal standard of living is still going to be far above what this \$1.25 will bring.

In fact, the minimum is \$4,200, isn't it?

Mr. RUTTENBERG. \$4,600.²⁰

The data to which Mr. Ruttenberg referred are based on a study prepared by the Bureau of Labor Statistics which was described as a city worker's family budget. Many of the employees covered by this

¹⁹ 1959 hearings, op. cit., May 7, 1959, p. 39.

²⁰ 1959 hearings, op. cit., p. 39.

legislation are not city workers, and they are not the sole support of a family. On the contrary, their earnings supplement those of others in the family providing the entire family with an income far in excess of the minimum recommended by the Bureau of Labor Statistics.

Certainly, the Congress cannot legislate minimum living standards of \$4,200, much less \$4,600, for individuals or families based on the concept of a minimum wage for an individual worker.

In this connection it is appropriate to point out that essentially, the support for an increased statutory minimum is based on humanitarian rather than economic grounds. Even the most superficial examination of the so-called economic arguments in justification of the proposal reveals their emptiness. A statutory increase in wages unrelated to a corresponding increase in productivity on the part of the employees receiving the higher wage must result in raising costs accompanied either by a rise in prices or some additional unemployment. Such an increase cannot result in creating a single new job. The contention that it will stimulate the economy by expanding consumer purchasing power is completely spurious. Such a rise in purchasing power for some must result in at least an equivalent loss of purchasing power for consumers who do not receive the increase. Its effects are exactly the same as if the Government were to print new money and distribute it gratis to a segment of the population. The latter would benefit only at the expense of all the rest.

Hence it is plain that raising the minimum wage is purely a welfare measure designed to improve the living conditions of some of those employees whom the proponents of the measure regard as having insufficient income to maintain a minimum decent standard of living. But even with respect to this consideration, the committee bill ignores the relevant criteria and arrives at its minimum wage rate in a completely arbitrary fashion.

If the figure of \$4,600 a year given by Mr. Ruttenberg constitutes the minimum genuinely required to achieve a decent, normal standard of living, then the proponents and supporters of the committee bill should be demanding an hourly minimum wage sufficient to secure an annual wage of \$4,600—in other words at least \$2.30 an hour. The proposed \$1.25 for all covered employees at the end of 3 years doesn't remotely approach that figure.

The only other relevant indicator would be the Consumer Price Index which over the years has reflected the changes in the cost of living. If this index is used, it furnishes no justification for the committee bill. To the contrary, it would indicate that even the rise to the existing \$1 minimum has far outstripped the rise in the cost of living.

Thus, when the Fair Labor Standards Act was adopted in 1938 the minimum wage was set at 25 cents an hour. Since that date the Consumer Price Index, i.e., the cost of living has slightly more than doubled, rising by 111.27 percent at the end of 1960. On the other hand, the Federal minimum wage quadrupled during the same period, increasing by 300 percent. If the minimum wage had been raised to keep pace strictly with the cost of living, it would now be about 54 cents instead of a dollar. But, say the supporters of the committee bill, that 25 cents minimum set by Congress in 1938 (during the worst depression in our history) was too low; it is unfair to use that figure as a starting point.

The Congress, however, in enacting the minimum wage law in 1938 also provided that it should go to 40 cents by 1945. Now if Congress had set the original minimum wage at 40 cents instead of 25 cents, that would have been a substantial minimum indeed in the midst of a severe depression. But even the use of that 40 cents figure as the initial starting point beginning in 1938, provides no justification for the proposed increase. From 1938 to January 1955 the cost-of-living (Consumer Price Index) rose 90 percent. Using 40 cents as the base, the minimum wage should have gone to 76 cents in 1955. Instead, it went from 75 cents to a dollar, a much greater increase than that in the cost-of-living. By the end of 1960, as we have indicated, the cost-of-living had risen by 111.27 percent over the 1938 index. On this basis, the minimum wage should now be no more than 85 cents instead of a dollar. And even if we take the figure of 75 cents (which was the Federal minimum until 1956) as a starting point, and add to it the percentage rise in the cost-of-living since 1956, the highest minimum wage which would be presently justified is about 94 cents.

Another view of the impact on wage differentials was given by Mr. H. B. Devinny, vice president and director of industrial relations of the Davison Chemical Co., Baltimore, Md., who appeared on behalf of the U.S. Chamber of Commerce. He declared:

The impact of minimum wage legislation is not confined to the labor costs at the minimum.

In its initial impact, minimum wage legislation will narrow down or eliminate some of the preexisting wage differentials above the minimum. But the law does not change the underlying realities that produced and sustain these wage differentials.

These wage differentials are highly prized by working people and are highly useful in allocating and recruiting human resources of varying skills and talents, and in terms of risk and working conditions.

Wage differentials exist in all societies and perform highly essential functions. They can be counted on to reassert themselves after a new minimum is fixed—to induce a spreading of upward changes in wage rates in general from those directly affected by the minimum wage law to others above the minimum not directly affected.

It is generally agreed that minimum wage legislation both “jacks up” the whole wage rate structure and increases its rigidity. It is on the desirability of these effects that fundamental disagreement develops.

Those who support increases in the minimum wage may be, wittingly or unwittingly, becoming underwriters of inflation. Why are labor leaders with few or even no members working at the minimum wage so interested in getting lawmakers to do their work for them? ²¹

Mr. Devinny answered this question by inserting an article from the New York Times of October 7, 1955. It read:

Union locals in the garment industry were instructed today to seek a general wage increase for 150,000 workers when the Federal minimum wage goes to \$1 an hour March 1. The

²¹ 1959 hearings, op. cit., May 13, 1959, pp. 517-518.

mandate was issued by the general executive board of the International Ladies Garment Workers Union, AFL, at its semiannual meeting here. David Dubinsky, the union's president, said the wage drive was intended to counteract the "squeeze" that would be put on the industry's pay structure by the addition of 25 cents an hour to the Government-enforced wage floor.

He explained it this way: When a worker now earning less than \$1 an hour moves up to \$1, the spread between his earning and those of workers making more than \$1 will be narrowed. The union proposes to maintain the present balance between jobs by insisting that employers give workers in the over-\$1 bracket increases proportionate to those the under-\$1 group will get automatically.²²

It would be totally unrealistic for us to legislate in the general area of labor costs at a time when foreign competition is becoming increasingly important. Real wages based on productivity can be supported, but if, in our eagerness to aid those who are paid marginal wages, we destroy their opportunities for employment in competition with workers abroad, we will have performed a great disservice to the American people.

The most striking feature of this country's economic history has been the virtually continuous improvement in the real wages of Americans, and in the standards of living based upon them. We are eager to see this process accelerate. However, we do not believe that Federal legislation can guarantee higher standards of living or employment.

Considering all of the adverse effects an increase in the minimum wage rate at this time would have on the thousands of small businesses, and especially the workingman whom this bill is intended to benefit, we are unalterably opposed to any legislation which would increase the present statutory minimum rate of \$1 per hour.

2. Effect on employment

Many individuals would prefer to earn what might be regarded by some as a low wage than be totally unemployed. We must maintain a reasonable balance between minimum wages and employment possibilities.

The Congress has enacted measures to assist the States in financing of their unemployment compensation programs. We have an obligation not to add to unemployment by imposing burdens on employers which will only result in adding to the unemployment rolls in those areas where wage levels are low and where unemployment is also at peak levels.

There are countless groups of employees in areas which for one reason or another are encountering economic distress who would prefer to see their present employers remain in business rather than to be forced to accept relief or unemployment compensation because the Congress had established a minimum wage which their employers could not pay and still remain in business.

We favor wages based on human needs that are consistent with maintaining employment opportunities. The evidence presented to the committee shows that a minimum wage of more than a dollar an

²² Ibid., p. 518.

hour plus a vastly increased coverage will jeopardize the employment opportunities of many individuals who are now performing useful work, maintaining their self respect, and advancing their economic status through acquiring experience in industries paying the present minimum wage.

The American economy is faced with increasing foreign competition which requires that every effort be exerted to increase efficiency in manufacturing and similar occupations. Industrial output has increased much more rapidly than employment. Hence, it is essential that job opportunities be created in the other segments of our economy including the services, which are assuming increasing importance so that workers displaced by automation and improved technological processes will not join the ranks of the unemployed.

It is apparent to any observer of the American scene that most new office buildings and apartments have automatic elevators since the higher wage scales which were demanded by the building service employees have permanently displaced elevator operators from their jobs. Similarly, automatic vending machines and simplified distribution systems in supermarkets which minimize the need of clerks are proceeding at a rapid pace.

It is proposed that even laundries be included under the broadened coverage of the Fair Labor Standards Act. The problems of applying Federal legislation to purely local activities were presented to the committee by Mr. Andrew Broaddus, the president of the Capital Laundry & Dry Cleaning Co., of Louisville, Ky., who appeared on behalf of the American Institute of Laundering. He said:

We would call to your attention testimony presented to this committee in 1957 by Mr. Forest I. Neal, Jr., president of Old Colony Laundries, Quincy, Mass. Mr. Neal made the following points:

- (1) That our business is purely local in character.
- (2) That the area of competition between laundries is a small one indeed.
- (3) That laundries do not inject goods into the stream of interstate commerce.
- (4) That our principal competition is our own customer, the housewife, because these very customers can readily do this work for themselves if our prices and our services are out of line, and not satisfactory.
- (5) That laundries are truly small businesses.
- (6) That laundries have an extremely high percentage of labor costs currently being from 62 to 66 percent of every sales dollar.

These statements were made to congressional committees 2 years ago by Mr. Neal and many other representatives of the American Institute of Laundering and are not less true today. In fact there are many additional factors which emphasize the purely local character of this business.

I point out specifically the newest threat to the unemployment of more than 225,000 people in the form of neighborhood coin-operated, laundry-in-machine installations. These plants employ no labor and as a result undersell our service

industry which has the labor costs in addition to the investment on the part of the owner.²³

As we have stated previously, automation, in this case the coin-operated laundry machine, is in competition with laundry workers regardless of any statutory edict.

Any rapid and sudden increase in coverage of the Fair Labor Standards Act which will accelerate this trend will cause serious hardship for countless individuals.

An examination of the committee bill shows that businesses brought under the act would be confronted with a far greater wage-cost increase than one might expect. It would not only involve raising the wages of those earning less than the minimum, but would also mean an upward wage adjustment for higher paid employees. To absorb the cost of an increase the small merchant or retailer is faced with two alternatives: to increase his prices or reduce the number of his employees. In fact, there may be a third alternative—he can go out of business. It is often impossible for an individual manufacturer to pass added costs on to the consumer by increasing the price of his product. An increase in the price of his product might well place it out of competition with similar products or might cause the consumer to purchase a substitute product. If an employer is forced to reduce his staff in order to meet the additional expense, the result is increased unemployment throughout the Nation.

3. The definition of "enterprise engaged in commerce or in the production of goods for commerce"

The committee bill, subject to certain limitations based on dollar volume of business, extends coverage to "enterprises engaged in commerce or in the production of goods for commerce." This phrase is defined in the bill to mean—

any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person * * *.

In the bill S. 1046, which in modified form passed the Senate in the 86th Congress (H.R. 12677), the coverage concept was "enterprises engaged in any activity affecting commerce." As indicated above, the phrase "affecting commerce" has been construed by the courts as constituting the broadest possible scope authorized by the Constitution of the power of Congress to regulate interstate commerce.

The presence of this maximum-coverage concept in that bill gave rise to serious concern on the part of many Members of Congress, and resulted in more protracted and intensive debate than occurred in connection with any other aspect of the bill. The present committee bill drops the phrase "affecting commerce," but in replacing it with the definition of "enterprise engaged in commerce," etc., quoted above, actually substitutes for it a concept which, in our opinion, is even broader in scope. Thus, for example, if the only goods which have been produced or moved in interstate commerce were so produced or moved 5 years before they were sold by the enterprise, and no other activity of the enterprise had even the remotest

²³ To amend the Fair Labor Standards Act, hearings before the Subcommittee on Labor of the Committee on Labor and Public Welfare, U.S. Senate, 86th Cong., 1st sess., June 4, 1959, p. 986.

impact on or relationship to interstate commerce, that enterprise would nevertheless be covered if it met the other requirements as to dollar volume.

The National Labor Relations Board, in applying its statutory test of "affecting commerce" to determine if it has jurisdiction under title I of the Taft-Hartley Act, bases its determination on the activities "affecting commerce" engaged in by the employer during the preceding year. If the only activities of that kind engaged in by the employer occurred prior to that period, the Board recognizes it has no jurisdiction. This method of determining its jurisdiction has never been overruled by the courts.

Even among the most devoted supporters of the committee bill, there is lack of knowledge of the precise scope of the bill's coverage. When the AFL-CIO testified in favor of the bill this year, the following colloquy took place between Senator Goldwater and Kenneth Meiklejohn, legislative representative of the AFL-CIO:

Senator GOLDWATER. Mr. Meiklejohn, I want to get back to this enterprise question.

I think we all agree that the Supreme Court statements or the present definitions of "affecting commerce" are as broad as they can be made. Now will you tell me the difference between "affecting commerce" and "enterprise" as described in subsections on page 3?

Mr. MEIKLEJOHN. I am not sure that I can do so in any definitive way, Senator * * *.

Senator GOLDWATER. You are a lawyer. Is this definition narrower than the Supreme Court decision?

Mr. MEIKLEJOHN. I would say that in some areas it may be broader, and in others it may be narrower, Senator. I think it is substantially similar.

Senator GOLDWATER. If you think it is substantially similar, then why would you object to having the "affecting" language in it?

Mr. MEIKLEJOHN. The "affecting commerce" language?

Senator GOLDWATER. Yes.

Mr. MEIKLEJOHN. We would not object to that. We have supported legislation for many years in which we have urged Congress to extend coverage of the act to employees who work in industry affecting commerce.

Senator GOLDWATER. So you would have no objection to using the language that was in the last year's bill?

Mr. MEIKLEJOHN. No, indeed.

Senator GOLDWATER. So, in effect, there is no difference?

Mr. MEIKLEJOHN. We argued, in support of that, Senator, that it would be desirable to use that concept, because it was a concept that had been used in other labor statutes. It was, therefore, one as to which there had been definitive court decisions so that people would know what the scope of the act was.

Senator GOLDWATER. So there is actually in your mind no difference between the two?

Mr. MEIKLEJOHN. I won't say there is no difference between the two because there has not heretofore been in

the law the concept of the enterprise engaged in commerce or in the production of goods for commerce.

* * * * *

Senator GOLDWATER. It would be possible then under this language or the "affecting commerce" language, that an enterprise entirely local in nature, doing no business outside the State, other than handling merchandise that was brought in from out of State, or one item was brought in from out of State, such as the soap in the case of a laundry, could come under commerce. Is that correct?

Mr. MEIKLEJOHN. That is correct. As I say, this depends upon whether or not the Federal courts can be persuaded in a given situation that the connection between the establishment or the enterprise and interstate commerce is such that it brings that establishment or enterprise within the scope of the commerce clause, as utilized by Congress in this legislation.²⁴

Thus, as the foregoing colloquy indicates, the committee bill's interstate commerce provision presents an initial difficulty which is wholly unnecessary if what the bill's sponsors intended was coverage equivalent to that given by the phrase "affecting commerce." They have written new and untried language, wholly lacking in judicial interpretation, which will give rise to and require extensive litigation before its meaning becomes clear, leaving those who might be affected in a state of uncertainty for a protracted period.

If the committee's language is substantially equivalent to "affecting commerce," as Mr. Meiklejohn speculated, or is even broader in scope as we believe, additional problems and difficulties will be created.

The Congress has drawn definite boundaries within which it intended minimum wage protection was to be applied. To expand these boundaries indefinitely would obliterate any distinction under the law between interstate and intrastate commerce. This new coverage provision would give the Federal Government drastically broad authority over local and intrastate businesses. Furthermore, because of this deep Federal encroachment into the "intrastate commerce" of the States it raises serious questions about the constitutionality of the new coverage proposals in the area of wage regulation. True, the Supreme Court has sustained the constitutionality of broad Federal jurisdiction in the National Labor Relations Act, which deals with labor disputes which Congress has found to constitute a burden on, and interruption of, or an interference with interstate commerce. But there are serious questions whether such broad Federal jurisdiction is equally lawful in an area such as the regulation of peacetime wages. The contrast in scope between the new proposals and the present jurisdictional standards of the Fair Labor Standards Acts is so great as to be shocking. The present law applies only to employees who are actually engaged in interstate commerce or in the production of goods for interstate commerce. The proposed coverage would regulate the wages of many employees whose connection with interstate commerce is either remote or nonexistent.

In analyzing the scope of the new coverage proposed by last year's bill, S. 1046, Mr. Eugene B. Sydnor, president of Southern Depart-

²⁴ Amendments to the Fair Labor Standards Act, hearings before the Subcommittee on Labor of the Committee on Labor and Public Welfare, U.S. Senate, 87th Cong., 1st sess., Mar. 2, 1961, pp. 237-239.

ment Stores, Inc., a member of the Virginia State Senate, speaking for the Chamber of Commerce of the United States, made the following statement:

As a State legislator I am very conscious of the provisions of the Federal Constitution that assign to the Federal Government in fields of business and trade control of interstate commerce.

Under our constitutional form of government, powers not delegated to the Federal Government are reserved to the States and these include supervision of local or intrastate commerce.

However, S. 1046 proposes by Federal action to apply nationwide uniform regulations to these basically local activities, and if enacted could mark the passing of the last frontier between the proper legal functions of State governments and an all-powerful Federal bureaucracy constantly extending its power.

Furthermore, another extremely undesirable nature of the fundamental changes proposed by S. 1046, is involved in the fact that 29 State governments have already enacted minimum wage laws which properly concern intrastate and local trade.

It, therefore, cannot be said that this is a field in which the States have failed to act. It would appear that supporters of S. 1046 propose this drastic change in the relationship between State and Federal Governments since they wish to force one overall standard on all business and trade no matter how widely needs and conditions vary in each of our 50 States.

I firmly believe that the State legislatures are the proper bodies to take any necessary action and correct any inequities that may exist in this field.²⁵

He further stated that extended coverage would jeopardize employment opportunities in retail and service trades. He said:

Retailing, for example, offers comparatively good employment stability, as was evidenced during the recent recession. From August 1957 to June 1958, retail employment declined only 1 percent, while manufacturing employment dropped 12 percent.

Also, the retail and service trades are perhaps the major fields for employment of the inexperienced young beginners and older workers, those generally less productive employees, often working on a part-time basis. Nationwide, according to the U.S. Department of Labor, part-timers account for about one-fourth of total nonsupervisory employment in retailing. Most of these employees would be unemployable if they were deprived of employment opportunities in retailing.

All of this—the general employment stability and the opportunities for inexperienced employees—would be seriously jeopardized by extension of Federal minimum wage provisions to the retail and service trades.

²⁵ 1959 hearings, op. cit., pp. 498, 499.

As employers are forced to make staff reductions to keep total labor costs in line, the inexperienced employees would be the first to go, followed by others whose productivity is not on a par with the mandatory wage level. Since a great many of these employees could not hope to gain other employment, they would thus be forced out of the labor market entirely * * *.

It seems most unwise to gamble with legislation such as S. 1046 which undoubtedly would add still more people to the unemployment ranks, thus depriving them of a source of income.²⁶

It is estimated that the number of additional employees which will be covered by the proposed amendments will total more than 4 million people. They include not only retail establishments but service industries of a purely local nature including laundries, local transit, and construction. We cannot subscribe to the concept that any of these enterprises are engaged in interstate commerce. Certainly, employees engaged in these activities should be protected by adequate laws enacted by the several States, and there is no reason why the Congress should encroach upon the prerogatives of State legislatures which are in a position to enact legislation to meet the peculiar local requirements which, of necessity, must vary in each of our 50 States.

The bill would include the employees of local transit companies. Testimony before the subcommittee clearly shows that there are approximately 40 cities in which the dominant transit system is publicly owned and operated. These include New York, Chicago, Los Angeles, Detroit, Cleveland, Boston, San Francisco, and Seattle. The employees of these publicly owned systems constitute more than 30 percent of the total employees in the local transit industry. They would not be affected by any changes in the Fair Labor Standards Act.

The Congress is aware of the difficulties confronting this industry as evidenced by Public Law 757 enacted by the 84th Congress granting a franchise to the District of Columbia Transit System, Inc.

Furthermore, the Congress has exempted the transit industry from the most recent 1-cent increase in the Federal gasoline tax as a recognition of the extreme problems confronting the transit industry through reduced patronage and steadily rising costs. It is fairly obvious in a regulated industry where increases in rates require the approval of governmental authorities that an increase in labor costs can only result in unemployment, poor service, or bankruptcy.

Our opposition to Federal encroachment on States rights in no way supports inadequate State laws. The following colloquy between Senator Goldwater and Mr. Meany expresses our views:

Senator GOLDWATER. I have gone before the legislature of my State the last five terms and begged them to raise that minimum wage.

Mr. MEANY. And still you sit here and say that it should be left to the States.

Senator GOLDWATER. I say it should be left to the States. And I also said this to you, if you remember——

²⁶ 1959 hearings, op. cit., pp. 499, 500.

Mr. MEANY. How many years will you have to go to the legislature before you decide something should be done here?

Senator GOLDWATER. Let me finish—and then I will try to answer the other questions you have put to me. I have also told the States if they did not act in this field, the Federal Government will have to act in this field.

So I am not sitting here as a complete advocate of State rights. I recognize the need for meeting minimum wages, just as well as you do. I approach it in a different way.²⁷

4. *Injurious effect on small businessmen*

We believe that any change in the present interstate commerce coverage concept as is proposed by the committee bill would bring thousands of local, small businesses within the act and impose requirements on them that would result in severe curtailment of employment. We recommend the present law remain unchanged.

As we have already indicated, the inclusion of retail and service enterprises, laundries, construction firms, and local transit companies imposes burdens on numerous small firms which are not in a position to assume these burdens and remain in business. The problems of the small businessman in meeting the requirements of this proposed legislation were discussed during the course of the hearings.

Since the bill would exempt employees in enterprises with sales less than a given amount, it would have a very arbitrary impact upon different industries. A few salespeople could readily account for the minimum specified in the bill in terms of jewelry or furs. On the other hand, a far larger number would be required to produce an equivalent amount of sales in cosmetics, drugs, and similar products.

Small businessmen in competition with chainstores and other larger firms must meet prevailing wage scales if they are to attract and retain competent employees. The dollar exemptions provided in the proposed legislation are meaningless inasmuch as every small firm, regardless of its size, will have to conform to the minimum wage imposed on its larger local competitor.

Senator Prouty expressed serious concern at the problem confronting the small businessman who must expand if he is to maintain his position in the competitive world. He said:

And so we are trying to arrive at a fair average which will enable the small businessman to stay in business * * *.²⁸

Congress in recent years has given serious consideration to the problems which confront small business in assuming its proper role in our ever-changing economy. The imposition of higher minimum wages and the inclusion of millions of presently uncovered employees, most of whom are employed by small business firms will have a serious effect on the survival of the small business community. Small business receives no benefit when the Congress conducts studies through the small business committees of both Houses on its special problems if it simultaneously imposes insuperable burdens through legislative fiat.

While we have been principally concerned with the impact of this proposed legislation on small business firms, its enactment will involve

²⁷ 1959 hearings, op. cit., May 7, 1959, p. 30.

²⁸ Ibid., p. 39.

a substantial increase in the budget and personnel of the Department of Labor charged with the enforcement of this legislation.

President Eisenhower requested more than \$11 million for the Wage and Hour Division in the Department of Labor in the 1960 budget. The average number of employees recently was in excess of 1,300. Expanding the coverage of this act will necessarily entail a large increase in personnel to develop interpretations for newly covered industries and to insure compliance.

At a time when every effort should be made to reduce unnecessary budgetary expenses we cannot lightly accept the imposition of these additions to the budget which the record does not indicate would perform any useful service.

V. CRITICAL ANALYSIS OF SPECIFIC PROVISIONS OF THE COMMITTEE BILL

A. AMENDMENTS CHANGING THE INTERSTATE COMMERCE PROVISIONS OF THE ACT AND ELIMINATING OR NARROWING PRESENT EXEMPTIONS

1. *Expanded coverage*

As the law stands today, it applies only to an employee who is himself engaged in interstate commerce or in the production of goods for interstate commerce, so that some employees of an employer may be covered and others not.²⁹ Under the committee bill, however, coverage would be greatly expanded as follows:

First, the wage and overtime provisions are made applicable not only to those employees presently covered but also to all employees employed in any of the following enterprises which have employees engaged in interstate commerce or in the production of goods for interstate commerce: (1) retail and service enterprises having gross annual sales of at least \$1 million, and purchases goods which have moved across State lines in an annual volume of at least \$250,000; (2) laundries and drycleaning enterprises having gross annual sales of at least \$1 million; (3) local transit enterprises; (4) any establishment of any such enterprise not included in (1), (2), (3), (5), or (6) as listed herein, if the annual sales of such enterprise are at least \$1 million; (5) any enterprise in the construction business which has an annual gross volume of business of \$350,000; and (6) any gasoline service establishment if its annual volume is at least \$250,000.

Second, the bill does not simply cover the particular establishment which is in interstate commerce or producing goods for interstate commerce (except with respect to gasoline service establishments). Rather, it covers the entire enterprise of the employer—even those of his establishments not so engaged—so long as the enterprise somewhere has two or more employees who are so engaged, including employees handling goods that have theretofore moved in interstate commerce or been produced for interstate commerce, even though they have come to rest.³⁰

Industries covered by the bill which are not presently covered on an enterprise basis.—As above pointed out, the bill is extraordinarily

²⁹ Administrator's interpretative bulletin on general coverage of act, pt. 776, sec. 776.26.

³⁰ Cf. *Walling v. Jacksonville Paper Co.*, 317 U.S. 564.

far-reaching in expanding the coverage features of the act. It would cover the following presently noncovered employees:

(a) Employees of employers in the construction business who are engaged in erecting, maintaining, or repairing dwellings, apartments, hotels, churches, schools and new factory, buildings.³¹ It would simply be necessary to show that the enterprise has two or more employees handling goods that had moved in interstate commerce and that it did an annual volume of business of \$350,000. It does not take a very large construction business to do an annual volume of \$350,000. This provision, incidentally, is broader than the provision in the bill as introduced, S. 895, because it employs an enterprise rather than an establishment test.

(b) All employees of wholesalers doing an annual business of \$1 million even if they deal exclusively with the wholesaler's goods after they have come to rest at his place of business.³² It would be the rare wholesaler who did not have at least two employees handling goods that come from outside the State.

(c) All employees of banks, insurance companies and real estate firms, many of whom are presently not covered because they are not themselves engaged in interstate commerce or in the production of goods for interstate commerce.³³

The committee bill would also cover all of the following, if the establishment were part of an enterprise which did an annual volume of \$1 million and had two or more employees handling goods received from outside the State:

(a) All employees of local fertilizer companies engaged in selling all their fertilizer to local farmers within the State.

(b) All employees engaged in providing residential or other living facilities for other workers.

(c) All employees of local window-cleaning companies doing business wholly within the State.

(d) All employees of a local independent nursery concern.

(e) All employees of a local exterminator service firm, who work solely within the State exterminating insects in private houses, apartments, hotels, barber shops, colleges and hospitals.

(f) All employees of a local architectural firm.

The foregoing examples are illustrative only. Prior to the 1949 amendments to the act, all these activities were construed by the Administrator and the courts to be within the act's coverage. Congress was alarmed by this expansion of coverage into local areas through administrative and judicial fiat. In the 1949 amendments, Congress made clear its displeasure with these and like interpretations and amended the law so as to establish beyond doubt that the law was not to be considered applicable to them or any other local activities. Its new legislation directed the Administrator instead to apply the law within the bounds originally contemplated, which did not include local business. (See H. Conf. Rept. No. 1453, 81st Cong., 1st sess., pp. 14-15.)

The committee bill would not only turn back the clock and once again make all these activities subject to the act, but would go further and cover virtually all business.

³¹ That such employees are presently not covered, see pt. 776, sec. 776.26, referred to in footnote ²⁹.

³² That such employees are presently not covered, see *Walling v. Jacksonville Paper Co.*, 317 U.S. 564.

³³ *Bozant v. Bank of New York* 156 F. (2d) 787 (C.A. 2); *Mitchell v. Household Finance Corp.*, 208 F. (2d) 667 (C.A. 3); WHM 10:155 et seq.

2. *Industries presently completely exempt which would suffer loss or diminution of exemptions*

(a) *Retail and service establishments.*—The exemption for these establishments appears presently in section 13 of the law. These exemptions were motivated by a desire on the part of President Roosevelt, the sponsors of the original legislation, and Congress as a whole to exclude local business from the act. Congress felt that the matter of regulating the minimum wages and maximum hours of the retail and service establishments should be left to the States, in view of the wide variation in the operating practices of such establishments (81 Congressional Record 7648; see also H. Doc. 225, 75th Cong., 1st sess.). The States have been doing their job in this connection. For example, during the past year Massachusetts, New Hampshire, New York, Utah, Vermont, Wisconsin, the District of Columbia, and Puerto Rico raised their minimums. So did Pennsylvania, effective in January of 1961. In all, some 33 States, the District of Columbia, and Puerto Rico have wage and hour laws regulating retailing.

Many other strong objections exist with respect to the elimination of the retail and service establishment exemption in the law. First, an increase to comply with the law for a few employees will have to be followed by a proportional increase for other employees to preserve wage differentials. This is bound to have an inflationary effect. Second, many retail employees are part-time workers, principally elderly women and high school children. They could not be retained under a Federal minimum. Third, many high commission employees work long hours during peak periods. To require the payment of overtime on such high commissions would result in fantastic payments during periods of heavy selling. The committee bill takes partial cognizance of this problem but does not fully meet it. Fourth, in many areas, particularly rural ones to care for the needs of the farmer, stores are open 6 days a week and employees work over 40 hours. Such stores cannot afford to pay overtime so that they would have to reduce hours, thus causing employees a substantial loss of income.

The bill changes the existing exemptions radically and seeks through the expanded coverage concepts to cover retail and service establishments, if such establishments are part of an enterprise doing an annual volume of at least \$1 million. In those circumstances, the sliding scale of minimum wages and maximum hours referred to above for newly covered employees applies. The term "enterprise" is broadly defined so that it would include all related activities performed by any person for a common business purpose, whether such activities were performed in one or more establishments or by one or more corporate or organizational units and whether the activities were related through unified operations or common control.

(b) *Laundries and dry cleaning establishments.*—This exemption is radically changed and the sliding scale of minimum wages and maximum hours for newly covered employees is made applicable to (a) laundry and dry cleaning enterprises doing an annual volume of at least \$1 million and (b) laundry and dry cleaning establishments doing an annual volume of \$250,000 which are engaged in substantial competition in the same metropolitan area with establishments doing 50 percent of their business outside the State. Moreover, any laundry

or cleaning establishment doing more than 25 percent of its business with a commercial enterprise would lose its exemption. The exemption would also be lost with respect to employees of hotels, motels, and restaurants who do not perform laundry or cleaning services exclusively for their own employer.

(c) *Local retailing capacity exemption.*—This exemption is eliminated. Any employee presently enjoying the local retailing capacity exemption in a combination wholesale-retail enterprise would lose this exemption.

(d) *Fishing exemption.*—The present wage and overtime exemption for the fisheries industry covers not only the offshore fishing operation, but also the operations of packing, propagating, processing, marketing, freezing, curing, storing, or distributing fish, seafood, and their byproducts. The committee bill strikes out the exemption for all but the offshore operations. Even as to the offshore operations, the present law exempts employees engaged in loading or unloading fish for shipment, but the bill would exempt such activities only when performed by employees actually engaged in fishing.

As for the onshore operations of packing, processing, canning, etc., the bill in a new section continues the overtime exemption for such operations.

(e) *Local transit exemption.*—Existing law exempts the employees of local transit companies. The bill strikes this exemption so far as minimum wages are concerned, and to leave no doubt about coverage includes such transit companies in the expanded coverage provisions without reference to the amount of business they do. However, it continues the complete overtime exemption for such employees in a new section.

(f) *Small telephone exemption.*—Existing law exempts any switchboard operator employed in a public telephone exchange having not more than 750 stations. The committee bill limits this exemption to switchboard operators employed by an "independently owned" public telephone company.

(g) *Contract telegraphic agencies exemption.*—Existing law exempts contract telegraphic agencies maintained in exempt retail and service establishments, where the telegraph message revenue of such agency does not exceed \$500 a month. However, this exemption is only partially retained. Under the committee bill, such agencies would continue to qualify for the exemption only if the retail or service establishment in which they were located also were exempt. To the extent that the committee bill narrows the retail and service exemptions, it narrows this exemption as well.

(h) *Seamen exemption.*—Existing law exempts any employee employed as a seaman. The committee bill limits the exemption to an employee employed as a seaman on vessels other than American vessels. However, the overtime exemption for all seamen is continued.

3. *Industries presently partially exempt from the overtime provisions of the act and whose exemption would be limited*

(a) *Agricultural processing industries.*—Existing law exempts the following industries for 14 workweeks a year from the overtime provisions of the act without limitation as to hours:

(a) First processing, canning, or packing of fresh fruits or vegetables.

(b) First processing within the area of production of any agricultural or horticultural commodity.

(c) Handling, slaughtering, or dressing poultry or livestock.

(b) *Seasonal industries*.—Existing law exempts seasonal industries from the overtime provisions of the act for 14 workweeks a year, up to 12 hours a day and 56 hours a week.

Fruit and vegetable packers, canners, and first processors presently enjoy both this and the preceding exemption and thus have 28 weeks of exemption per year. The committee bill would cut this to 20 weeks per year. In sharp contrast, the committee bill continues the year-round exemption without limitation as to hours for the following agricultural processing industries:

(a) First processing of milk, buttermilk, whey, skimmed milk, or cream into dairy products.

(b) Ginning and compressing of cotton.

(c) Processing of cottonseed.

(d) Processing of sugarcane, sugar beets, sugar-beet molasses, and maple sap into sugar or syrup.

4. *Other features of the committee bill*

(a) The committee bill amends the definition of "wage" by excluding the cost of board, lodging, and other facilities furnished the employee if such exclusion is provided for in a collective bargaining agreement. The Secretary of Labor is authorized to determine the fair value of board, lodging, and other facilities where they count as part of the wage.

(b) The committee bill amends the provision of the law relating to minimum wages in Puerto Rico and the Virgin Islands by providing a percentage increase for presently covered employees similar to that which presently covered employees would receive under the committee bill in other parts of the United States. A procedure is also created for staying these percentage increases pending action by review committees set up by the Secretary of Labor.

Newly covered employees would be paid minimum wages as determined by the Secretary of Labor in wage orders following recommendations of industry committees, but not in excess of the rates prescribed for newly covered employees in the United States.

(c) The committee bill amends the section relating to child labor, by prohibiting the employment of child labor in any enterprise engaged in interstate commerce or the production of goods for interstate commerce.

(d) The committee bill provides complete overtime exemptions for employees of retail automobile, truck, and farm implement establishments, and for employees of gasoline service stations.

(e) The committee bill provides a new overtime exemption for announcers, news editors, and chief engineers of broadcasting stations in small market areas with populations not in excess of 50,000.

(f) The committee bill provides a new overtime exemption for wholesale or bulk distributors of petroleum products if their annual volume of sales does not exceed \$1 million, at least 75 percent of their sales are made within the State, and not more than 25 percent of such sales are made to customers for resale.

(g) The committee bill also provides an overtime exemption in certain cases for drivers and drivers' helpers who are compensated on the basis of trip rates or other delivery payment plans.

(h) The committee will retain by specific provisions part of the existing retail and service exemptions; the following remain exempt:

1. Hotels, motels, and restaurants;
2. Motion picture theaters;
3. Seasonal amusement and recreational establishments;
4. Proprietary hospitals;
5. Retail and service establishments which have an annual volume of sales of less than \$250,000;
6. Catering services.

(i) The bill gives to the Secretary of Labor the right to collect back pay in injunction suits he may bring to restrain violations of the act.

B. DISCRIMINATIONS, INEQUITIES, INCONSISTENCIES, AND OTHER DEFECTS

The separation of enterprises into covered or noncovered categories on the basis of a volume of business test is unfair and arbitrary. There is no showing that this test bears any relationship to an enterprise's ability to pay the higher wage or that it comes to grips with realistic business factors. The former employee test of commerce applied regardless of the volume of business. To depart from this test and substitute an arbitrary dollar figure for all enterprises is clearly unsound and harshly discriminatory.

The dollar volume test for determining coverage of the retail and service industries will not bear scrutiny. Employees of a local business which does an annual volume of \$1 million are likely to have the same working conditions as employees of a local business which does a smaller annual volume, so that there is no basis for discriminating between the two. But under the bill, the independent dry goods store or department store doing an annual volume of less than \$1 million will not be covered by the act, while the dry goods store or department store across the street, which does an annual volume of \$1 million, will be covered and ultimately subject to a \$1.25 minimum and premium pay for overtime.

Section 3(m) of the committee bill excludes from the term "wage," board and lodging which is not covered as a part of a collective bargaining agreement covering particular employees such as those working on construction projects in Alaska. The purpose of this section is clearly to exclude these fringe benefits from consideration for overtime purposes.

Yet, while giving recognition to the existence of collective bargaining contracts covering employees on construction projects in Alaska, the committee bill fails to exempt other employees who are represented by a certified collective bargaining agent. If, as the spokesmen of organized labor contend, the need for increased minimum wages and premium overtime pay is not for the benefit of the organized but to protect the unorganized worker from substandard wages and working conditions due to his inability to bargain effectively with his employer, then there appears to be no logical reason why employees represented by a collective bargaining agent should need the assistance of a Federal statute in order to better their economic standing when they have a representative whose job is to achieve that very result.

Section 3(s)(3) provides coverage of enterprises engaged in operating streetcar and buslines without any dollar limitation. Every

other section of the proposed new coverage provides a dollar cutoff to determine those covered and those not covered. We are unaware of any reason why all local transit industries should be covered irrespective of their annual dollar volume while all other enterprises and establishments grossing below a certain annual dollar volume of sales would remain uncovered.

Discrimination also exists in the treatment of employees within the same industry since those transit companies, municipally owned, would not be covered inasmuch as the term "employer" excludes from its definition any State or political subdivision of a State. Thus, competing transit lines operating in the same geographical area would be treated differently under the committee bill if one were privately owned and the other municipally owned. On the other hand taxicab companies enjoy a complete exemption.

Section 3(s)(5) deals with the construction or reconstruction industry. S. 895, as introduced, treated the construction and reconstruction industry in the same catchall paragraph with all other establishments not covered by any other paragraph. However, instead of placing a \$250,000 limitation on construction establishments, the limitation which applied to all other covered establishments, the figure was set at \$350,000, thus destroying such uniformity of treatment as was extended to other industries falling under this provision. While it is true that \$350,000 is just as arbitrary a figure as \$250,000 there is no visible reason why such arbitrariness should not at least possess the virtue of uniformity. The committee bill, now before us, continues this arbitrary and unequal treatment but in reverse. Coverage of the construction and reconstruction industry is no longer on an establishment basis but rather covers an enterprise doing an annual gross volume of business of not less than \$350,000. The catchall provision, however, provides coverage on the basis of an establishment of any enterprise but instead of \$250,000 (as provided in S. 895), the figure is now set at \$1 million for the enterprise. If the authors of the committee bill deem it advisable to increase the figure to \$1 million for an enterprise covered by section 3(s)(4), why is it not also advisable to cover construction and reconstruction industry on the same basis? As a matter of fact, in order to retain the ratio of dollar volume provided in S. 895, the figure for the construction and reconstruction industry should be set at \$1,400,000, not \$350,000.

Section 3(s)(6) would cover any gasoline service establishment if the annual gross volume of sales of the establishment is not less than \$250,000. The intended effect of this provision is to exclude from coverage all individual gasoline stations regardless of the ownership of the station.

Many large oil companies own and operate chains of gasoline service stations. Every one of these stations which has less than \$250,000 in annual gross sales would not be covered under the committee bill. Thus, a station doing \$249,000 annually, which is part of a large chain, would have a competitive advantage over a small independently owned Main Street station located next door doing \$251,000 a year. Here is a perfect illustration of the inconsistency contained in this act; employees of a station which is part of a giant oil company are not given the protection of the act while a small independent competitor must pay all his employees at least the minimum wage.

Equally unsound is the proposition that coverage should be extended to an entire establishment merely because two employees in the establishment are covered. If it is desired to cover the entire establishment, it would seem that the establishment's relationship to commerce should govern. To drag in all personnel of a business establishment based on two employees' activities is completely unrealistic.

Moreover, such employers will be faced with the gravest of problems. The point has been made that the Labor Department now has great administrative difficulties because some persons in a given business are covered while others are not. Whether or not this is true, present difficulties fade into insignificance when compared to what the employer will face in trying to determine when and in what weeks his employees will be covered. In 1 week, for example, two employees of a warehouse may handle mail or materials from out of the State. In such a week all his employees may, because of this, be due the minimum wage and overtime pay. The following week, however, neither these employees nor any other employees may handle out of State mail or shipments. In this week none of the employees will be covered. Of course, the employer must also consider whether his sales for the year will amount to \$1 million.

The committee bill would repeal the existing exemption generally for employees employed in a local retailing capacity. No reason for repealing this exemption is apparent, particularly in the light of the fact that an exemption in the law still exists for some employees engaged in a local retailing capacity.

To retain the local retailing exemption for some employees instead of for all employees in this occupation is still another example of an arbitrary and inconsistent action.

The exemption provided for laundries, apart from the fact that it is unfair and discriminatory in its intended application, is so complex as to be almost unworkable. It is a classic example of what happens when attempts are made to treat special interests or particular situations. As we read the applicable coverage and exemption provisions, the manager of a local laundry would have to consider the following to determine whether his employees are subject to the minimum wage and overtime provisions of the act:

1. The volume of business of the whole enterprise.
2. The volume of business of his individual establishment.
3. Whether he has any competition.
4. If he does, whether the competition is "substantial" (whatever that may mean).
5. If it is substantial, whether the competition is in the same metropolitan area (whatever this may be).
6. Whether the competing laundry's volume of sales are made within or without the State, and the percentage of such sales (how he will obtain this necessary information from a competitor in the business is not revealed).

This exemption establishes a unique and wholly new criterion for the act's applicability. Elsewhere in the statute, the tests for the application of the act are the activities of the affected employers or of the affected employees. Here, for the first time, the test for the act's applicability is the activity of the affected employer's competitor, who himself may not be subject to the act. Why this peculiar criterion should be applied solely in the laundry and cleaning industry is beyond our comprehension.

In order for a laundry to retain its exemption under present law, more than 75 percent of its annual dollar volume of sales of its services must be made to customers who are not engaged in a mining, manufacturing, transportation, or communications business. In addition to these businesses the committee bill has included the word "commercial." The legislative history of the Fair Labor Standards Act discloses that it was the intention of Congress to deny an exemption to a laundry doing a substantial amount of business with mining, manufacturing, transportation, or communication customers inasmuch as these customers themselves were engaged in interstate commerce or in the production of goods for interstate commerce and thus most of their employees would be covered by the act.

The committee bill, however, destroys the sense and meaning of present law by denying the exemption to a laundry because of services performed for a commercial business, such as, motels, hotels, restaurants, motion picture theaters, etc., all of which are specifically exempt under the committee bill and whose employees will not be covered under the act.

The committee bill reduces to 20 weeks the present 28 weeks of exemption from overtime per year for canners and packers of fruits and vegetables. On the other hand, it continues the year-round overtime exemption for milk processors, cotton ginner and compressors, cottonseed processors, and sugarcane and sugar beet processors. Still further it exempts from the act those fishing employees who load and unload fish products if they also do fishing work at sea, but not elsewhere.

The bill also exempts many radio and television station employees if they work in marketing areas of under 50,000 persons. No exemption conditioned upon the size of the town which it serves is granted to any other industry.

The committee bill also subjects to the child labor provisions of the act, the retail and service enterprises and laundries doing over \$1 million of business annually, and also the other establishments doing \$1 million of business annually if they have two employees engaged in commerce or in the production of goods for commerce. Here there is no special exemption for hotels, motels, restaurants, or motion picture theaters. This will mean that the frequently harmless employment of children by various retail stores will hereafter be banned. No need has been shown for such prohibition and in our view it will contribute to an increase in juvenile delinquency.

The committee bill permits the Secretary of Labor to resume the practice of collecting backpay in his injunction suits, a practice found by Congress to have been seriously abused. Aside from the fact that no need has been shown to restore this authority to him (sec. 16(c) of the act presently allows him to bring suit at an employee's request to collect the backpay owing the employee), this provision is objectionable because it also precludes the employee's right to collect double damages in any suit he may himself bring under section 16(b). The potential liability of such double damages has been a most effective aid to enforcement of the act and has contributed largely to substantial compliance with it. If such potential liability is now removed, we can expect more flagrant and widespread non-compliance with the law.

As pointed out above, all employees in establishments described in section 3(s)(4) are covered if two employees are engaged in interstate commerce or the production of goods for interstate commerce. The committee seeks to justify this strange test for coverage on the grounds of seeming uniformity of treatment for all the employees in any particular establishment. The committee bill in fact, not only fails to achieve uniformity of treatment for employees, but reduces the whole concept of uniformity to an irrational shambles. Thus, different treatment within the same enterprise is accorded employees with respect to minimum wage and overtime pay requirements. Again, in the same establishment, the minimum wage must be given to some employees but not to others, and the same is true with respect to overtime pay. And finally, within the same industry every variety of difference of treatment of employees may exist. Different employees may receive different minimum and overtime wage rates, while others may receive the minimum wage only but no overtime rate while still others receive neither.

VI. CONCLUSION

We support every measure which will enhance the economic welfare of American workers who constitute the vast majority of our entire population. Since earliest times, we have been a country that has been characterized by the absence of class distinctions. We believe that sound economic and fiscal policies that will insure a high level of general business activity will assure remunerative employment for most of our citizens.

But the committee bill runs contrary to these sound principles out of which the enormous expansion of our economy and our prosperity has developed. Moreover, it constitutes a graphic illustration that once Federal welfare legislation is enacted, it becomes well nigh impossible to repeal it when the need which brought it into existence has disappeared. As a matter of fact, such legislation is often carried into and applied to conditions and circumstances which are directly contrary to those which gave rise to the legislation in the first instance. And it sometimes happens, as in the committee bill, that these provisions, which time and change of circumstance have rendered completely inappropriate, are not only retained but even more widely extended.

Thus, when the Fair Labor Standards Act was enacted in 1938, provision was made requiring the payment of a premium wage rate of $1\frac{1}{2}$ times the regular hourly rate for overtime; that is, for all hours worked in excess of 40 a week. The legislative history of the act makes it abundantly clear that the purpose of this provision was to discourage overtime work in order to spread employment as widely as possible in a period of profound economic depression and widespread unemployment.

That requirement is still in the law despite the disappearance of the conditions from which it arose and which in the opinion of its sponsors, constituted its justification. Although the country is enjoying great economic prosperity, this mandatory payment of premium overtime pay is still the law. It no longer has the slightest relevance to its original purpose, but rather has come to be looked upon as a vested right. Many workers now regard overtime work,

because of the premium pay, as something valuable and it is much sought after. There have even been strikes against employers who, for one reason or another, have eliminated overtime work. It is hard to imagine a development in the application of our Federal law which constitutes a more flagrant perversion of the law's purpose.

When the Fair Labor Standards Act was adopted in 1938, organized labor was weak, small in numbers, and obviously incapable through its own efforts of improving the economic lot of American wage-workers. A few unions managed to protect the wage and working standards of their own employed members, but were helpless to aid the vast masses of unorganized and unemployed workers. Since then, organized labor has grown to over 16 million members. The overwhelming majority of these unions are strong enough to protect the interests of their members and the additional numerous non-member employees they represent in collective bargaining negotiations. Through the processes of collective bargaining they are generally capable of securing for them wages and working conditions well above the requirements of the wage-and-hour law. And where necessary, as has happened occasionally, if rarely, to contract collectively for wages below the statutory minimum where a higher rate would merely drive the employer out of business with a consequent loss of jobs for their members and the other employees whom they represent.

This is as it should be, and is entirely consistent with the national policy to encourage collective bargaining as the means not only for settling labor disputes but for determining wages and working conditions. The labor union leadership has insisted emphatically that there should be a minimum of Government intervention in the collective bargaining process. It has bitterly criticized certain provisions of the National Labor Relations Act as removing some issues from the area of collective bargaining and asserted that the Government should remove itself from this area by repealing these provisions, thus making them proper subjects of collective bargaining.

Minimum wages and premium overtime pay are terms and conditions of employment removed from the area of free collective bargaining and imposed by Federal law. The necessity for preserving these statutory requirements in situations where collective bargaining actually exists or is legally required is not only contrary to the considerations which led Congress to enact the Fair Labor Standards Act, but constitutes a negation of the Federal policy to encourage collective bargaining.

Mr. Meany implicitly recognizes this to be true. In his testimony before the Senate Labor Committee in 1957, he declared:

Let me make it clear that we are not coming here to ask Congress to enact a pay raise for union members. The wage standards of union members for the most part are considerably above the present \$1 an hour Federal minimum. We are speaking here for the unorganized worker who, because he is unorganized, must look to Congress for alleviation of his substandard conditions.³⁴

³⁴ "Proposals To Extend Coverage of Minimum Wage Protection," hearings before the Subcommittee on Labor and Public Welfare, U.S. Senate, 85th Cong., 1st sess., Mar. 4, 1957, p. 234.

And again—

And this law (the Fair Labor Standards Act), this law runs right to the bottom of the structure.

As I point out, this does *nothing directly* for the people who are organized. People who are organized have been able to take care of themselves to a degree. They at least have somebody to talk for them, and this bill does *not directly* affect their wages. [Emphasis supplied.]³⁵

Mr. Meany's statement, although admitting that this legislation is not necessary for employees who have unions to represent them in collective bargaining, is nonetheless somewhat disingenuous. He says it is not *directly* beneficial to organized workers. The only thing he can mean by the use of the qualifying terms "*nothing directly*" or "*not directly*" is that although the minimum wage requirements of the law give nothing to unionized workers, it does help the more highly paid employees to insist upon wage increases necessary to preserve the differentials between themselves and the lowest paid workers in the bargaining unit. Thus, the minimum wage law not only has the effect of assuring a minimum wage for low-paid employees but of increasing the leverage for wage-boosts for employees who already receive in excess of the statutory minimum, as Mr. Meany plainly implies. This result was certainly never intended or contemplated by the progenitors of the legislation, who, in 1938, were seeking protection for the great masses of unorganized workers, helpless because of depression, unemployment, and union weakness, to raise their wages without the aid of Federal law.

In conclusion we wish to declare our belief that where, in times of peace, a governmental responsibility exists, because of economic depression or the absence of union organization, to help working people, it is the responsibility of each State, to its own citizens (and not of the Federal Government), to provide minimum wage levels that are consistent with health and decent living standards. We also believe, however, that it is ultimately futile for either the States or the Federal Government to attempt to repeal natural economic law or to legislate prosperity. Such methods have been tried throughout recorded history and they have always resulted in inflation and disaster. This is a course we must not follow. On the contrary, we must exert our efforts to create sound fiscal and monetary policies and establish a climate conducive to economic growth.

BARRY GOLDWATER.
EVERETT M. DIRKSEN.

³⁵ Ibid, p. 238.

Calendar No. 127

87TH CONGRESS
1ST SESSION

H. R. 3935

[Report No. 145]

IN THE SENATE OF THE UNITED STATES

MARCH 27, 1961

Read twice and referred to the Committee on Labor and Public Welfare

APRIL 12, 1961

Reported by Mr. McNAMARA, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this ~~Act~~ may be cited as the “Fair Labor Standards
4 Amendments of 1961”.

DEFINITIONS

1
2 SEC. 2. (a) Paragraph (f) of section 3 of the Fair
3 Labor Standards Act of 1938 is amended by inserting after
4 "Agricultural Marketing Act, as amended)," the following:
5 "the processing of shade-grown tobacco for use as cigar
6 wrapper tobacco by agricultural employees employed in the
7 growing and harvesting of such tobacco, which processing
8 shall include, but shall not be limited to, drying, curing,
9 fermenting, bulking, rebulking, sorting, grading, aging, and
10 baling, prior to the stemming process," and in the case of
11 fruits and vegetables includes (1) transportation and prepa-
12 ration for transportation, whether or not performed by the
13 farmer, of the commodity from the farm to a place of first
14 processing or first marketing within the same State, (2)
15 transportation, whether or not performed by the farmer, be-
16 tween the farm and any point within the same State of per-
17 sons employed or to be employed in the harvesting of the
18 commodity.

19 (b) Paragraph (m) of section 3 of such Act, defining
20 the term "wage," is amended by inserting before the period
21 at the end thereof a colon and the following: "*Provided,*
22 That the cost of board, lodging, or other facilities shall not
23 be included as a part of the wage paid to any employee to
24 the extent it is excluded therefrom under the terms of a bona

1 file individual contract or collective bargaining agreement
 2 applicable to the particular employee”.

3 (c) Section 3 of such Act is further amended by adding
 4 at the end thereof the following new paragraphs:

5 “(p) ‘Secretary’ means the Secretary of Labor.

6 “(q) ‘Enterprise’ means the related activities performed
 7 (either through unified operation or common control) by
 8 any person or persons for a common retail business purpose,
 9 and includes all such activities whether performed in one or
 10 more establishments or by one or more corporate or other or-
 11 ganizational units but shall not include the related activities
 12 performed for such enterprise by an independent contractor:

13 *Provided, That,* within the meaning of this subsection, a local
 14 retail establishment which is under independent ownership
 15 and control shall not be deemed to be other than a separate
 16 and distinct enterprise by reason of any arrangement, which
 17 includes, but is not limited to, an agreement (1) that it will
 18 sell, or sell only, certain goods specified by a particular
 19 manufacturer, distributor, or advertiser, or (2) that it will
 20 join with other such local establishments in the same industry
 21 for the purpose of collective purchasing, or (3) that it will
 22 have the exclusive right to sell the goods or use the brand
 23 name of a manufacturer, distributor, or advertiser within a
 24 specified area, or by reason of the fact that it occupies

1 premises leased to it by a person who also leases premises to
2 other retail or service establishments.

3 “(r) ‘Enterprise engaged in commerce or in the produc-
4 tion of goods for commerce’ means any enterprise which has
5 five or more retail establishments and which operates such
6 establishments in two or more States.

7 “(s) ‘Retail establishment’ shall mean an establishment
8 75 per centum of whose annual dollar volume of sales of
9 goods is not for resale and is recognized as retail sales in the
10 particular industry, but shall not include an establishment
11 which is primarily a service establishment such as (but not
12 limited to) hotels, motels, restaurants (including lunch
13 counters, cafeterias, and drive-ins), caterers, hospitals, laun-
14 dry or drycleaning establishments, motion-picture theaters,
15 amusement or recreational establishments, parking lots,
16 beauty or barber shops, and repair shops.”

17 INVESTIGATIONS OF EFFECTS OF FOREIGN COMPETITION
18 ON EMPLOYMENT

19 SEC. 3. Section 4 of such Act is amended by adding at
20 the end thereof the following new subsection:

21 “(c) Whenever the Secretary has reason to believe that
22 in any industry under this Act the competition of foreign
23 producers in United States markets or in markets abroad,
24 or both, has resulted, or is likely to result, in increased un-
25 employment in the United States, he shall undertake an in-

1 vestigation to gain full information with respect to the matter
 2 and shall make a full and complete report of his findings and
 3 determinations to the President and to the Congress."

4 SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND
 5 THE VIRGIN ISLANDS

6 SEC. 4 Subsection ~~(a)~~ of section 5 of such Act is
 7 amended by inserting, after the words "production of goods
 8 for commerce" wherever they appear, the following: "or
 9 employed by a retail establishment of an enterprise engaged
 10 in commerce or in the production of goods for commerce".

11 MINIMUM WAGES

12 SEC. 5. ~~(a)(1)~~ Section 6~~(a)~~ of such Act is amended
 13 by inserting, after the word "who" in the portion thereof
 14 preceding paragraph ~~(1)~~, the words "in any workweek".

15 ~~(2)~~ Paragraph ~~(1)~~ of section 6~~(a)~~ of such Act is
 16 amended to read as follows:

17 "~~(1)~~ not less than \$1.15 an hour, except as other-
 18 wise provided in this section;"

19 ~~(3)~~ The first sentence of paragraph ~~(3)~~ of section
 20 6~~(a)~~ of such Act is amended to read as follows:

21 "~~(3)~~ if such employee is employed in American
 22 Samoa, in lieu of the rates provided by this subsection or
 23 subsection ~~(b)~~, not less than the applicable rate estab-
 24 lished by the Secretary of Labor in accordance with
 25 recommendations of a special industry committee o

1 committees which he shall appoint in the same manner
2 and pursuant to the same provisions as are applicable
3 to the special industry committees provided for Puerto
4 Rico and the Virgin Islands by this Act as amended
5 from time to time.”

6 ~~(b)~~ Subsection ~~(b)~~ of section 6 of such Act is amended
7 to read as follows:

8 “(b) Every employer shall pay to each of his em-
9 ployees who in any workweek ~~(i)~~ is employed by a retail
10 establishment of an enterprise engaged in commerce or in
11 the production of goods for commerce, as defined in section
12 3(r), and who, except for the enactment of the Fair
13 Labor Standards Amendments of 1961 would not be
14 within the purview of this section; or ~~(ii)~~ is brought
15 within the purview of this section by the amendments made
16 to section 13(a) of this Act by the Fair Labor Standards
17 Amendments of 1961, wages at the rate of not less than
18 \$1 an hour.”

19 ~~(c)~~ Subsection ~~(c)~~ of section 6 of such Act is amended
20 by changing the period at the end thereof to a colon, and
21 adding the following: “*Provided further*, That the Secre-
22 tary shall within sixty days after the enactment of the Fair
23 Labor Standards Amendments of 1961 appoint a special
24 industry committee in accordance with section 5 to recom-

mend the highest minimum wage rate or rates, in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1961."

MAXIMUM HOURS

SEC. 6. Subsection (a) of section 7 of such Act is amended by inserting after the word "who" the words "in any workweek".

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 7. (a) Section 8 of such Act is amended by inserting after "section 6(a)" wherever such words appear the following: "or in section 6(b), whichever may be applicable".

(b) Subsection (a) of section 8 of such Act is further amended by inserting after the word "industries" where it appears in the first sentence the words "or retail establishments of enterprises"; and by inserting after the words "production of goods for commerce" where they appear in the

1 second sentence the following: "or by any retail establish-
 2 ment of an enterprise engaged in commerce or in the produc-
 3 tion of goods for commerce."

4 CHILD LABOR PROVISIONS

5 SEC. 8. Subsection (c) of section 12 of such Act is
 6 amended by striking out the period at the end thereof and
 7 inserting in lieu thereof the following: "or in any retail
 8 establishment of an enterprise engaged in commerce or in the
 9 production of goods for commerce."

10 EXEMPTIONS

11 SEC. 9. (a) Clause (1) of section 31(a) of such Act
 12 is amended to read as follows: "(1) any employee employed
 13 in a bona fide executive, administrative, or professional
 14 capacity, or in the capacity of outside salesman (as such
 15 terms are defined and delimited from time to time by regu-
 16 lations of the Secretary, subject to the provisions of the Ad-
 17 ministrative Procedure Act, except that an employee of a re-
 18 tail establishment shall not be excluded from the definition of
 19 employee employed in a bona fide executive or adminis-
 20 trative capacity because of the number of hours in his work-
 21 week which he devotes to activities not directly or closely
 22 related to the performance of executive or administrative
 23 activities, if less than 40 per centum of his hours worked in
 24 the workweek are devoted to such activities); or".

25 (b) Clause (2) of section 13(a) of such Act is

1 amended to read as follows: “~~(2)~~ any employee employed
 2 by any retail or service establishment ~~(except a retail estab-~~
 3 lishment in an enterprise engaged in commerce or in the pro-
 4 duction of goods for commerce, other than such a retail es-
 5 tablishment which has an annual dollar volume of sales
 6 ~~(exclusive of excise taxes at the retail level which are sep-~~
 7 arately stated) of less than \$250,000), more than 50 per
 8 centum of which establishment’s annual dollar volume of sales
 9 of goods or services is made within the State in which the
 10 establishment is located. A retail or service establishment
 11 shall mean an establishment 75 per centum of whose annual
 12 dollar volume of sales of goods or services ~~(or both)~~ is
 13 not for resale and is recognized as retail sales or services in
 14 the particular industry; or”.

15 ~~(c)~~ Clause ~~(13)~~ of section 13(a) of such Act is
 16 amended to read as follows: “~~(13)~~ any employee or
 17 proprietor in a retail or service establishment which qualifies
 18 as an exempt retail or service establishment under clause
 19 ~~(2)~~ of this subsection with respect to whom the provisions
 20 of sections 6 and 7 would not otherwise apply, engaged in
 21 handling telegraphic messages for the public under an agency
 22 or contract arrangement with a telegraph company where
 23 the telegraph message revenue of such agency does not
 24 exceed \$500 a month; or”.

1 ~~(d)~~ Section 13~~(a)~~ of such Act is amended by changing
2 the period at the end thereof to a semicolon and adding the
3 following: “or ~~(16)~~ any employee employed by a retail
4 establishment who is employed in connection with a lunch
5 counter, restaurant, or cafeteria in such establishment; or
6 ~~(17)~~ any employee of a retail gasoline establishment; or
7 ~~(18)~~ any employee of an establishment which is primarily
8 engaged in the business of selling automobiles, trucks, or
9 farm implements.”

10 ~~(e)~~ Section 13~~(b)~~ of such Act is amended by changing
11 the period at the end thereof to a semicolon and adding the
12 following: “or ~~(6)~~ any employee employed as an announcer,
13 news editor, or chief engineer by a radio or television station
14 the major studio of which is located in a city or town of one
15 hundred thousand population or less, according to the latest
16 available decennial census figures as compiled by the United
17 States Bureau of Census, except where such city or town
18 is part of a standard metropolitan area as defined and desig-
19 nated by the Bureau of Census, which has a total population
20 in excess of one hundred thousand; or ~~(7)~~ any employee em-
21 ployed by a retail establishment of an enterprise engaged in
22 commerce or in the production of goods for commerce whose
23 minimum rate of wages is governed by section 6~~(b)~~ of this
24 Act; or ~~(8)~~ any employee employed in a bona fide local
25 retailing capacity (as such term is defined and delimited from

1 time to time by regulations of the Secretary, subject to the
2 provisions of the Administrative Procedure Act).”

3 EMPLOYMENT OF STUDENTS

4 SEC. 10. Clause (1) of section 14 of such Act is
5 amended by striking out “and” after “apprentices,” and by
6 inserting after “messages”, the following: “and of full time
7 students outside of their school hours,”.

8 STUDY TO SIMPLIFY AND REMOVE INEQUITIES IN AGRI-
9 CULTURAL HANDLING AND PROCESSING EXEMPTIONS

10 SEC. 11. The Secretary of Labor shall study the com-
11 plicated system of exemptions now available for the handling
12 and processing of agricultural products under such Act and
13 particularly sections 7(b)(3), 7(c), and 13(a)(10), and
14 shall submit to the second session of the Eighty-seventh Con-
15 gress at the time of his report under section 4(d) of such Act
16 a special report containing the results of such study and in-
17 formation, data, and recommendations for further legislation
18 designed to simplify and remove the inequities in the applica-
19 tion of such exemptions.

20 EFFECTIVE DATE

21 SEC. 12. The amendments made by this Act shall take
22 effect upon the expiration of one hundred and twenty days
23 after the date of its enactment, except as otherwise provided
24 and except that the authority to promulgate necessary rules,
25 regulations, or orders with regard to amendments made by

1 this Act, under the Fair Labor Standards Act of 1938 and
2 amendments thereto, including amendments made by this
3 Act, may be exercised by the Secretary on and after the
4 date of enactment of this Act.

5 *That this Act may be cited as the "Fair Labor Standards*
6 *Amendments of 1961".*

7 **DEFINITIONS**

8 *SEC. 2. (a) Paragraph (m) of section 3 of the Fair*
9 *Labor Standards Act, of 1938, as amended, defining the*
10 *term "wage", is amended by inserting before the period at*
11 *the end thereof a colon and the following: "Provided, That*
12 *the cost of board, lodging, or other facilities shall not be in-*
13 *cluded as a part of the wage paid to any employee to the*
14 *extent it is excluded therefrom under the terms of a bona*
15 *fide collective-bargaining agreement applicable to the par-*
16 *ticular employee: Provided further, That the Secretary is*
17 *authorized to determine the fair value of such board, lodging,*
18 *or other facilities for defined classes of employees and in*
19 *defined areas, based on average cost to the employer or to*
20 *groups of employers similarly situated, or average value to*
21 *groups of employees, or other appropriate measures of fair*
22 *value. Such evaluations, where applicable and pertinent,*
23 *shall be used in lieu of actual measure of cost in determining*
24 *the wage paid to any employee".*

1 (b) Section 3 of such Act is further amended by adding
2 at the end thereof the following new paragraphs:

3 “(p) ‘American vessel’ includes any vessel which is doc-
4 umented or numbered under the laws of the United States.

5 “(q) ‘Secretary’ means the Secretary of Labor.

6 “(r) ‘Enterprise’ means the related activities performed
7 (either through unified operation or common control) by any
8 person or persons for a common business purpose, and in-
9 cludes all such activities whether performed in one or more
10 establishments or by one or more corporate or other organi-
11 zational units including departments of an establishment
12 operated through leasing arrangements, but shall not include
13 the related activities performed for such enterprise by an in-
14 dependent contractor: Provided, That, within the meaning of
15 this subsection, a local retail or service establishment which is
16 under independent ownership shall not be deemed to be so
17 operated or controlled as to be other than a separate and dis-
18 tinct enterprise by reason of any arrangement, which includes,
19 but is not necessarily limited to, an agreement, (1) that it will
20 sell, or sell only, certain goods specified by a particular manu-
21 facturer, distributor, or advertiser, or (2) that it will join
22 with other such local establishments in the same industry for
23 the purpose of collective purchasing, or (3) that it will have
24 the exclusive right to sell the goods or use the brand name of a

1 manufacturer, distributor, or advertiser within a specified
2 area, or by reason of the fact that it occupies premises leased
3 to it by a person who also leases premises to other retail or
4 service establishments.

5 “(s) ‘Enterprise engaged in commerce or in the pro-
6 duction of goods for commerce’ means any of the following
7 in the activities of which employees are so engaged, in-
8 cluding employees handling, selling, or otherwise working
9 on goods that have been moved in or produced for commerce
10 by any person:

11 “(1) any such enterprise which has one or more
12 retail or service establishments if the annual gross vol-
13 ume of sales of such enterprise is not less than \$1,000,-
14 000, exclusive of excise taxes at the retail level which
15 are separately stated and if such enterprise purchases or
16 receives goods for resale that move or have moved across
17 State lines (not in deliveries from the reselling establish-
18 ment) which amount in total annual volume to \$250,-
19 000 or more;

20 “(2) any such enterprise which has one or more
21 establishments engaged in laundering, cleaning, or re-
22 pairing clothing or fabrics if the annual gross volume of
23 sales of such enterprise is not less than \$1,000,000, ex-
24 clusive of excise taxes at the retail level which are sepa-
25 rately stated;

1 “(3) any such enterprise which is engaged in the
2 business of operating a street, suburban or interurban
3 electric railway, or local trolley or motorbus carrier;

4 “(4) any establishment of any such enterprise,
5 except establishments and enterprises referred to in
6 other paragraphs of this subsection, which has em-
7 ployees engaged in commerce or in the production of
8 goods for commerce if the annual gross volume of sales
9 of such enterprise is not less than \$1,000,000;

10 “(5) any such enterprise which is engaged in the
11 business of construction or reconstruction, or both, if the
12 annual gross volume from the business of such enter-
13 prise is not less than \$350,000;

14 “(6) any gasoline service establishment if the
15 annual gross volume of sales of such establishment is not
16 less than \$250,000, exclusive of excise taxes at the retail
17 level which are separately stated:

18 *Provided, That an establishment shall not be considered to be*
19 *an enterprise engaged in commerce or in the production of*
20 *goods for commerce, or a part of an enterprise engaged in*
21 *commerce or in the production of goods for commerce, and*
22 *the sales of such establishment shall not be included for the*
23 *purpose of determining the annual gross volume of sales of*
24 *any enterprise for the purpose of this subsection, if the only*
25 *employees of such establishment are the owner thereof or*

1 *persons standing in the relationship of parent, spouse, or*
2 *child of such owner."*

3 *INVESTIGATIONS OF EFFECTS ON EMPLOYMENT OF*
4 *FOREIGN COMPETITION*

5 *SEC. 3. Section 4 of such Act is amended by adding at*
6 *the end thereof the following new subsection:*

7 *"(e) Whenever the Secretary has reason to believe that*
8 *in any industry under this Act the competition of foreign*
9 *producers in United States markets or in markets abroad, or*
10 *both, has resulted or is likely to result, in increased unem-*
11 *ployment in the United States, he shall undertake an in-*
12 *vestigation to gain full information with respect to the matter.*
13 *If he determines such increased unemployment has in fact*
14 *resulted, or is in fact likely to result, from such competition,*
15 *he shall make a full and complete report of his findings and*
16 *determinations to the President and to the Congress: Pro-*
17 *vided, That he may also include in such report information*
18 *on the increased employment resulting from additional ex-*
19 *ports in any industry under this Act as he may determine to*
20 *be pertinent to such report."*

*SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND
THE VIRGIN ISLANDS*

SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting after the words "production of goods for commerce" wherever they appear, the following: "or employed in any enterprise engaged in commerce or in the production of goods for commerce".

MINIMUM WAGES

SEC. 5. (a)(1) Section 6(a) of such Act is amended by inserting after the word "who" in the portion thereof preceding paragraph (1), the words "in any workweek".

(2) Paragraph (1) of section 6(a) of such Act is amended to read as follows:

"(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section."

1 (3) The first sentence of paragraph (3) of section
2 6(a) of such Act is amended to read as follows:

3 “(3) if such employee is employed in American
4 Samoa, in lieu of the rate or rates provided by this
5 subsection or subsection (b), not less than the appli-
6 cable rate established by the Secretary of Labor in ac-
7 cordance with recommendations of a special industry
8 committee or committees which he shall appoint in the
9 same manner and pursuant to the same provisions as
10 are applicable to the special industry committees pro-
11 vided for Puerto Rico and the Virgin Islands by this
12 Act as amended from time to time.”

13 (b) Subsection (b) of section 6 of such Act is amended
14 to read as follows:

15 “(b) Every employer shall pay to each of his employees
16 who in any workweek (i) is employed in an enterprise en-
17 gaged in commerce or in the production of goods for com-
18 merce, as defined in section 3(s), (1), (2), (3), or (5)
19 or by an establishment described in section 3(s) (4) or
20 (6), and who, except for the enactment of the Fair Labor
21 Standards Amendments of 1961, would not be within the
22 purview of this section, or (ii) is brought within the pur-
23 view of this section by the amendments made to section
24 13(a) of this Act by the Fair Labor Standards Amend-
25 ments of 1961, wages at rates—

1 “(1) not less than \$1 an hour during the first year
2 from the effective date of such amendments; not less
3 than \$1.05 an hour during the second year from such
4 date; not less than \$1.15 an hour during the third year
5 from such date; and not less than the rate effective under
6 paragraph (1) of subsection (a) thereafter;

7 “(2) if such employee is employed as a seaman
8 on an American vessel, not less than the rate which will
9 provide to the employee, for the period covered by the
10 wage payment, wages equal to compensation at the hourly
11 rate prescribed by paragraph (1) of this subsection for
12 all hours during such period when he was actually on
13 duty (including periods aboard ship when the employee
14 was on watch or was, at the direction of a superior officer,
15 performing work or standing by, but not including off-
16 duty periods which are provided pursuant to the employ-
17 ment agreement).”

18 (c) Subsection (c) of section 6 of such Act is amended
19 to read as follows:

20 “(c) The rate or rates provided by subsections (a)
21 and (b) of this section shall be superseded in the case of
22 any employee in Puerto Rico or the Virgin Islands only
23 for so long as and insofar as such employee is covered by
24 a wage order heretofore or hereafter issued by the Secretary
25 pursuant to the recommendations of a special industry com-

1 mittee appointed pursuant to section 5: Provided, That (1)
2 the following rates shall apply to any such employee to
3 whom the rate or rates prescribed by subsection (a) would
4 otherwise apply:

5 “(A) The rate or rates applicable under the most re-
6 cent wage order issued by the Secretary prior to the effec-
7 tive date of the Fair Labor Standards Amendments of 1961,
8 increased by 15 per centum, unless such rate or rates are
9 superseded by the rate or rates prescribed in a wage order
10 issued by the Secretary pursuant to the recommendations of
11 a review committee appointed under paragraph (C). Such
12 rate or rates shall become effective sixty days after the effec-
13 tive date of the Fair Labor Standards Amendments of 1961
14 or one year from the effective date of the most recent wage
15 order applicable to such employee theretofore issued by the
16 Secretary pursuant to the recommendations of a special in-
17 dustry committee appointed under section 5, whichever is
18 later.

19 “(B) Beginning two years after the applicable effec-
20 tive date under paragraph (A), not less than the rate or
21 rates prescribed by paragraph (A), increased by an amount
22 equal to 10 per centum of the rate or rates applicable under
23 the most recent wage order issued by the Secretary prior
24 to the effective date of the Fair Labor Standards Amend-
25 ments of 1961, unless such rate or rates are superseded by

1 the rate or rates prescribed in a wage order issued by the
2 Secretary pursuant to the recommendations of a review com-
3 mittee appointed under paragraph (C).

4 “(C) Any employer, or group of employers, employ-
5 ing a majority of the employees in an industry in Puerto
6 Rico or the Virgin Islands, may apply to the Secretary in
7 writing for the appointment of a review committee to
8 recommend the minimum rate or rates to be paid such em-
9 ployees in lieu of the rate or rates provided by paragraph
10 (A) or (B). Any such application with respect to any
11 rate or rates provided for under paragraph (A) shall be
12 filed within sixty days following the enactment of the Fair
13 Labor Standards Amendments of 1961 and any such ap-
14 plication with respect to any rate or rates provided for
15 under paragraph (B) shall be filed not more than one
16 hundred and twenty days and not less than sixty days prior
17 to the effective date of the applicable rate or rates under
18 paragraph (B). The Secretary shall promptly consider
19 such application and may appoint a review committee
20 if he has reasonable cause to believe, on the basis of financial
21 and other information contained in the application, that
22 compliance with any applicable rate or rates prescribed by
23 paragraph (A) or (B) will substantially curtail employ-
24 ment in such industry. The Secretary's decision upon any

1 such application shall be final. Any wage order issued pur-
2 suant to the recommendations of a review committee ap-
3 pointed under this paragraph shall take effect on the ap-
4 plicable effective date provided in paragraph (A) or (B).

5 “(D) In the event a wage order has not been issued
6 pursuant to the recommendation of a review committee prior
7 to the applicable effective date under paragraph (A) or
8 (B), the applicable percentage increase provided by any such
9 paragraph shall take effect on the effective date prescribed
10 therein, except with respect to the employees of an employer
11 who filed an application under paragraph (C) and who
12 files with the Secretary an undertaking with a surety or
13 sureties satisfactory to the Secretary for payment to his
14 employees of an amount sufficient to compensate such em-
15 ployees for the difference between the wages they actually
16 receive and the wages to which they are entitled under this
17 subsection. The Secretary shall be empowered to enforce
18 such undertaking and any sums recovered by him shall be
19 held in a special deposit account and shall be paid, on order
20 of the Secretary, directly to the employee or employees af-
21 fected. Any such sum not paid to an employee because of
22 inability to do so within a period of three years shall be cov-
23 ered into the Treasury of the United States as miscellaneous
24 receipts.

25 “(2) In the case of any such employee to whom subsec-

1 tion (b) would otherwise apply, the Secretary shall within
2 sixty days after the enactment of the Fair Labor Standards
3 Amendments of 1961 appoint a special industry committee
4 in accordance with section 5 to recommend the highest mini-
5 mum wage rate or rates in accordance with the standards
6 prescribed by section 8, not in excess of the applicable rate
7 provided by subsection (b), to be applicable to such em-
8 ployee in lieu of the rate or rates prescribed by subsection
9 (b). The rate or rates recommended by the special indus-
10 try committee shall be effective with respect to such em-
11 ployee upon the effective date of the wage order issued
12 pursuant to such recommendation but not before sixty days
13 after the effective date of the Fair Labor Standards Amend-
14 ments of 1961.

15 “(3) The provisions of section 5 and section 8, relating
16 to special industry committees, shall be applicable to review
17 committees appointed under this subsection. The appoint-
18 ment of a review committee shall be in addition to and not
19 in lieu of any special industry committee required to be
20 appointed pursuant to the provisions of subsection (a) of
21 section 8, except that no special industry committee shall
22 hold any hearing within one year after a minimum wage
23 rate or rates for such industry shall have been recommended
24 to the Secretary by a review committee to be paid in lieu
25 of the rate or rates provided for under paragraph (A) or

1 (B). The minimum wage rate or rates prescribed by this
 2 subsection shall be in effect only for so long as and insofar as
 3 such minimum wage rate or rates have not been superseded
 4 by a wage order fixing a higher minimum wage rate or rates
 5 (but not in excess of the applicable rate prescribed in sub-
 6 section (a) or subsection (b)) hereafter issued by the Sec-
 7 retary pursuant to the recommendation of a special industry
 8 committee.”

9 MAXIMUM HOURS

10 SEC. 6. (a) Subsection (a) of section 7 of such Act
 11 is amended by designating such subsection as subsection
 12 (a)(1), by inserting after the word “who” the words “in
 13 any workweek”, and by striking out the period at the end
 14 thereof and inserting a semicolon and the word “and” in lieu
 15 thereof and adding the following new paragraph (2):

16 “(2) No employer shall employ any of his employees
 17 who in any workweek (i) is employed in an enterprise
 18 engaged in commerce or in the production of goods for
 19 commerce, as defined in section 3(s)(1), (2), or (5),
 20 or by an establishment described in section 3(s) (4), and
 21 who, except for the enactment of the Fair Labor Standards
 22 Amendments of 1961, would not be within the purview of
 23 this subsection, or ii) is brought within the purview of this
 24 subsection by the amendments made to section 13 of this
 25 Act by the Fair Labor Standards Amendments of 1961—

1 “(A) for a workweek longer than forty-four hours
2 during the second year from the effective date of the
3 Fair Labor Standards Amendments of 1961,

4 “(B) for a workweek longer than forty-two hours
5 during the third year from such date,

6 “(C) for a workweek longer than forty hours after
7 the expiration of the third year from such date,
8 unless such employee receives compensation for his employ-
9 ment in excess of the hours above specified at a rate not less
10 than one and one-half times the regular rate at which he is
11 employed.”

12 (b) Subsection (b) of section 7 of such Act is amended
13 by striking out “in excess of forty hours in the workweek”
14 in paragraph (2) and inserting in lieu thereof the following:
15 “in excess of the maximum workweek applicable to such em-
16 ployee under subsection (a)”.

17 (c) Subsection (c) of section 7 of such Act is amended
18 by inserting after the subsection designation “(c)” the para-
19 graph designation “(1)”, by inserting after the semicolon the
20 paragraph designation “(2)”, and by inserting before the
21 period a comma and the following: “except that in any such
22 place of employment in which both clause (2) of this sub-
23 section and clause (3) of subsection (b) apply to employees,
24 the number of exempt workweeks shall not exceed ten in any
25 calendar year under each such clause.”

1 (d) Paragraph (5) of subsection (d) of section 7 of
2 such Act is amended by striking out “forty in a workweek”
3 and inserting in lieu thereof the following: “in excess of the
4 maximum workweek applicable to such employee under
5 subsection (a)”.

6 (e) Paragraph (7) of subsection (d) of section 7 of
7 such Act is amended by striking out “forty hours” and in-
8 inserting in lieu thereof the following: “the maximum work-
9 week applicable to such employee under subsection (a)”.

10 (f) Subsection (e) of section 7 of such Act is amended
11 (1) by striking out “forty hours” and inserting in lieu
12 thereof “the maximum workweek applicable to such em-
13 ployee under subsection (a)”, (2) by striking out “section
14 6(a)” and inserting in lieu thereof “subsection (a) or (b)
15 of section 6 (whichever may be applicable)”, and (3) by
16 striking out “forty in any” and inserting in lieu thereof
17 “such maximum”.

18 (g) Subsection (f) of section 7 of such Act is amended
19 by striking out “forty hours” both times it appears therein
20 and inserting in lieu thereof the following: “the maximum
21 workweek applicable to such employee under such subsec-
22 tion”.

23 (h) Section 7 of such Act is amended by adding at the
24 end thereof the following new subsection:

1 “(h) No employer shall be deemed to have violated
 2 subsection (a) by employing any employee of a retail or
 3 service establishment for a workweek in excess of the ap-
 4 plicable workweek specified therein, if (1) the regular rate
 5 of pay of such employee is in excess of one and one-half times
 6 the minimum hourly rate applicable to him under section
 7 6, and (2) more than half his compensation for a repre-
 8 sentative period (not less than one month) represents com-
 9 missions on goods or services.”

10 WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

11 SEC. 7. Subsection (a) of section 8 of such Act is
 12 amended by inserting after the word “industries” where it
 13 appears in the first sentence the words “or enterprises”; and
 14 by inserting after the words “production of goods for com-
 15 merce” where they appear in the second sentence the follow-
 16 ing: “or in any enterprise engaged in commerce or in the
 17 production of goods for commerce”.

18 CHILD LABOR PROVISIONS

19 SEC. 8. Subsection (c) of section 12 of such Act is
 20 amended by striking out the period at the end thereof and
 21 inserting in lieu thereof the following: “or in any enterprise
 22 engaged in commerce or in the production of goods for
 23 commerce.”

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EXEMPTIONS

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SEC. 9. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

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“(a) The provisions of sections 6 and 7 shall not apply with respect to—

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“(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

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“(2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, if such establishment—

1 “(i) is not in an enterprise described in sec-
2 tion 3(s), or

3 “(ii) is in such an enterprise and is a hotel,
4 motel, restaurant, motion picture theater, or an
5 amusement or recreational establishment that oper-
6 ates on a seasonal basis, or

7 “(iii) is in such an enterprise and is a hospital,
8 or an institution which is primarily engaged in the
9 care of the sick, the aged, the mentally ill or defec-
10 tive, residing on the premises of such institution, or
11 a school for physically or mentally handicapped or
12 gifted children, or

13 “(iv) is in such an enterprise and has an an-
14 nual dollar volume of sales (exclusive of excise
15 taxes at the retail level which are separately stated)
16 which is less than \$250,000.

17 A ‘retail or service establishment’ shall mean an estab-
18 lishment 75 per centum of whose annual dollar volume
19 of sales of goods or services (or of both) is not for
20 resale and is recognized as retail sales or services in
21 the particular industry; or

22 “(3) any employee employed by any establishment
23 (except an establishment in an enterprise described in
24 section 3(s)(2)) engaged in laundering, cleaning, or

1 *repairing clothing or fabrics, more than 50 per centum*
2 *of which establishment's annual dollar volume of sales*
3 *of such services is made within the State in which the*
4 *establishment is located: Provided, That 75 per centum*
5 *of such establishment's annual dollar volume of sales of*
6 *such services is made to customers who are not engaged*
7 *in a mining, manufacturing, transportation, commercial,*
8 *or communications business: Provided further, That*
9 *neither the exemption in this paragraph nor in paragraph*
10 *(2) shall apply to any employee of a hotel, motel, or*
11 *restaurant who is engaged in laundering, cleaning, or*
12 *repairing clothing or fabrics where such services are not*
13 *performed exclusively for such hotel, motel, or restau-*
14 *rant: Provided further, That this exemption shall not*
15 *apply to any employee of any such establishment which*
16 *has an annual dollar volume of sales of such services*
17 *of \$250,000 or more and which is engaged in substantial*
18 *competition in the same metropolitan area with an estab-*
19 *lishment less than 50 per centum of whose annual dollar*
20 *volume of sales of such services is made within the State*
21 *in which it is located; or*

22 “(4) any employee employed by an establishment
23 which qualifies as an exempt retail establishment under
24 clause (2) of this subsection and is recognized as a re-
25 tail establishment in the particular industry notwith-

standing that such establishment makes or processes at the retail establishment the goods that it sells: Provided, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or

“(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or

“(6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

“(7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or

“(8) any employee employed in connection with

1 *the publication of any weekly, semiweekly, or daily news-*
2 *paper with a circulation of less than four thousand the*
3 *major part of which circulation is within the county where*
4 *printed and published or counties contiguous thereto;*
5 *or*

6 *“(9) any employee of a retail or service establish-*
7 *ment who is employed primarily in connection with the*
8 *preparation or offering of food or beverages for human*
9 *consumption, either on the premises, or by such services*
10 *as catering, banquet, box lunch, or curb or counter serv-*
11 *ice, to the public, to employees, or to members or guests*
12 *of members of clubs; or*

13 *“(10) any individual employed within the area of*
14 *production (as defined by the Secretary), engaged in*
15 *handling, packing, storing, ginning, compressing, pas-*
16 *teurizing, drying, preparing in their raw or natural*
17 *state, or canning of agricultural or horticultural com-*
18 *modities for market, or in making cheese or butter or*
19 *other dairy products; or*

20 *“(11) any switchboard operator employed by an*
21 *independently owned public telephone company which*
22 *has not more than seven hundred and fifty stations; or*

23 *“(12) any employee of an employer engaged in*
24 *the business of operating taxicabs; or*

25 *“(13) any employee or proprietor in a retail or*

1 *service establishment which qualifies as an exempt re-*
2 *tail or service establishment under clause (2) of this*
3 *subsection with respect to whom the provisions of sec-*
4 *tions 6 and 7 would not otherwise apply, engaged in*
5 *handling telegraphic messages for the public under an*
6 *agency or contract arrangement with a telegraph com-*
7 *pany where the telegraph message revenue of such*
8 *agency does not exceed \$500 a month; or*

9 *“(14) any employee employed as a seaman on a*
10 *vessel other than an American vessel; or*

11 *“(15) any employee employed in planting or tend-*
12 *ing trees, cruising, surveying, or felling timber, or in*
13 *preparing or transporting logs or other forestry products*
14 *to the mill, processing plant, railroad, or other trans-*
15 *portation terminal, if the number of employees employed*
16 *by his employer in such forestry or lumbering opera-*
17 *tions does not exceed twelve.*

18 *“(b) The provisions of section 7 shall not apply with*
19 *respect to—*

20 *“(1) any employee with respect to whom the In-*
21 *terstate Commerce Commission has power to establish*
22 *qualifications and maximum hours of service pursuant*
23 *to the provisions of section 204 of the Motor Carrier*
24 *Act, 1935; or*

1 “(2) any employee of an employer subject to the
2 provisions of part I of the Interstate Commerce Act; or

3 “(3) any employee of a carrier by air subject to
4 the provisions of title II of the Railway Labor Act;
5 or

6 “(4) any employee employed in the canning, proc-
7 essing, marketing, freezing, curing, storing, packing
8 for shipment, or distributing of any kind of fish, shell-
9 fish, or other aquatic forms of animal or vegetable life,
10 or any byproduct thereof; or

11 “(5) any individual employed as an outside buyer
12 of poultry, eggs, cream, or milk, in their raw or natural
13 state; or

14 “(6) any employee employed as a seaman; or

15 “(7) any employee of a street, suburban, or inter-
16 urban electric railway, or local trolley or motorbus
17 carrier, not included in other exemptions contained in
18 this section; or

19 “(8) any employee of a gasoline service station; or

20 “(9) any employee employed as an announcer,
21 news editor, or chief engineer by a radio or television
22 station having its major studio in a city or town which
23 has a population of not more than fifty thousand, ac-
24 cording to the latest available decennial census figures as
25 compiled by the Bureau of the Census, if such city or

1 town is not part of a standard metropolitan statistical
2 area (as defined and designated by the Bureau of the
3 Budget) having a total population in excess of fifty
4 thousand; or

5 “(10) any employee of an independently owned
6 and controlled local enterprise (including an enterprise
7 with more than one bulk storage establishment) engaged
8 in the wholesale or bulk distribution of petroleum prod-
9 ucts if (A) the annual gross volume of sales of such
10 enterprise is not more than \$1,000,000 exclusive of ex-
11 cise taxes, and (B) more than 75 per centum of such
12 enterprise’s annual dollar volume of sales is made within
13 the State in which such enterprise is located, and (C)
14 not more than 25 per centum of the annual dollar
15 volume of sales of such enterprise is to customers who
16 are engaged in the bulk distribution of such products
17 for resale; or

18 “(11) any employee of a retail or service establish-
19 ment primarily engaged in the business of selling auto-
20 mobiles, trucks, or farm implements; or

21 “(12) any employee employed as a driver or
22 driver’s helper making local deliveries, who is compen-
23 sated for such employment on the basis of trip rates, or
24 other delivery payment plan, if the Secretary shall find
25 that such plan has the general purpose and effect of re-

1 *ducing hours worked by such employees to, or below, the*
2 *maximum workweek applicable to them under section*
3 *7(a)."*

4 *EMPLOYMENT OF STUDENTS*

5 *SEC. 10. Clause (1) of section 14 of such Act is*
6 *amended by striking out “and” after “apprentices,” and*
7 *by inserting after “messages,” the following: “and of full-*
8 *time students outside of their school hours in any retail*
9 *or service establishment: Provided, That such employment*
10 *is not of the type ordinarily given to a full-time employee,”.*

11 *PENALTIES AND INJUNCTION PROCEEDINGS*

12 *SEC. 11. (a) Section 16(b) of such Act is amended by*
13 *adding at the end thereof a new sentence as follows: "The*
14 *right provided by this subsection to bring an action by or*
15 *on behalf of any employee, and the right of any employee*
16 *to become a party plaintiff to any such action, shall termi-*
17 *nate upon the filing of a complaint by the Secretary of Labor*
18 *in an action under section 17 in which restraint is sought*
19 *of any further delay in the payment of unpaid minimum*
20 *wages, or the amount of unpaid overtime compensation, as*
21 *the case may be, owing to such employee under section 6*
22 *or section 7 of this Act by an employer liable therefor under*
23 *the provisions of this subsection."*

24 (b) Section 17 of such Act is amended to read as
25 follows:

1 "INJUNCTION PROCEEDINGS

2 "SEC. 17. *The district courts, together with the United*
3 *States District Court for the District of the Canal Zone, the*
4 *District Court of the Virgin Islands, and the District Court*
5 *of Guam shall have jurisdiction, for cause shown, to re-*
6 *strain violations of section 15, including in the case of viola-*
7 *tions of section 15(a)(2) the restraint of any withholding*
8 *of payment of minimum wages or overtime compensation*
9 *found by the court to be due to employees under this Act*
10 *(except sums which employees are barred from recovering,*
11 *at the time of the commencement of the action to restrain*
12 *the violations, by virtue of the provisions of section 6 of the*
13 *Portal-to-Portal Act of 1947)."*

14 STUDY OF AGRICULTURAL HANDLING AND PROCESSING

15 EXEMPTIONS

16 SEC. 12. *The Secretary of Labor shall study the com-*
17 *plicated system of exemptions now available for the han-*
18 *dling and processing of agricultural products under such Act*
19 *and particularly sections 7(c), 13(a)(10) and 7(b)(3),*
20 *and shall submit to the second session of the Eighty-seventh*
21 *Congress at the time of his report under section 4(d) of*
22 *such Act a special report containing the results of such study*
23 *and information, data and recommendations for further leg-*
24 *islation designed to simplify and remove the inequities in the*
25 *application of such exemptions.*

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EFFECTIVE DATE

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SEC. 13. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided in such amendments and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act.

Passed the House of Representatives March 24, 1961.

Attest:

RALPH R. ROBERTS,

Clerk.

87TH CONGRESS
1ST SESSION

H. R. 3935

[Report No. 145]

AN ACT

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

MARCH 27, 1961

Read twice and referred to the Committee on Labor
and Public Welfare

APRIL 12, 1961

Reported with an amendment

mated to be \$70,000) for and to direct the U.S. Corps of Engineers to make a definitive study and report as to the feasibility, desirability and cost of constructing such diversion channel; and be it further

Resolved, That the county clerk is directed to transmit a certified copy of this resolution to the Clerk of the House of Representatives, Washington, D.C., and to the U.S. Senators from Wisconsin and to the Congressmen from Wisconsin from the Second, Fourth, Fifth, and Sixth Wisconsin Districts.

FAIR LABOR STANDARDS AMENDMENTS OF 1961—REPORT OF A COMMITTEE—MINORITY VIEWS (S. REPT. NO. 145)

Mr. McNAMARA. Mr. President, I have the honor of submitting—on behalf of the Committee on Labor and Public Welfare—the committee report on the minimum wage bill.

The committee has reported H.R. 3935—the House-passed bill—with an amendment in the nature of a substitute.

The bill is substantially similar to the measure which we passed in the Senate in August of last year.

It is substantially similar to the measures recommended to this Congress by the President and which has his wholehearted endorsement and support.

It is my understanding from the leadership that we will begin debate on this bill on Thursday.

I would like to make one observation about our committee procedures.

The ranking minority member, the junior Senator from Arizona, was most cooperative in our committee deliberations.

In the interest of expediting the bill, he withheld amendments he wished to offer so that we might obtain speedy committee approval of the bill.

It was clearly understood that he would offer these amendments on the floor during the coming debate.

I am hopeful that there will be no attempt to criticize his amendments on the technical basis that they were not offered to the committee.

I ask unanimous consent that the report be printed, together with the minority views of the Senator from Arizona [Mr. GOLDWATER] and the Senator from Illinois [Mr. DIRKSEN].

The VICE PRESIDENT. The report will be received and printed, as requested by the Senator from Michigan, and the bill will be placed on the calendar.

The bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes, was placed on the calendar.

Mr. McNAMARA. Mr. President, I ask unanimous consent that the text of the bill, and a brief summary of it be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

H.R. 3935

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Fair Labor Standards Amendments of 1961."

DEFINITIONS

SEC. 2. (a) Paragraph (m) of section 3 of the Fair Labor Standards Act, of 1938, as amended, defining the term "wage," is amended by inserting before the period at the end thereof a colon and the following: "Provided, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further*, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee."

(b) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs:

"(p) 'American vessel' includes any vessel which is documented or numbered under the laws of the United States.

"(q) 'Secretary' means the Secretary of Labor.

"(r) 'Enterprise' means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That, within the meaning of this subsection, a local retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not necessarily limited to, an agreement, (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such local establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

"(s) 'Enterprise engaged in commerce or in the production of goods for commerce' means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

"(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1,000,000, ex-

clusive of excise taxes at the retail level which are separately stated and if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more;

"(2) any such enterprise which has one or more establishments engaged in laundering, cleaning, or repairing clothing or fabrics if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

"(3) any such enterprise which is engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier;

"(4) any establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;

"(5) any such enterprise which is engaged in the business of construction or reconstruction, or both, if the annual gross volume from the business of such enterprise is not less than \$350,000;

"(6) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000, exclusive of excise taxes at the retail level which are separately stated:

"Provided, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce, or a part of an enterprise engaged in commerce or in the production of goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner."

INVESTIGATIONS OF EFFECTS ON EMPLOYMENT OF FOREIGN COMPETITION

SEC. 3. Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in fact resulted, or is in fact likely to result, from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress: *Provided*, That he may also include in such report information on the increased employment resulting from additional exports in any industry under this Act as he may determine to be pertinent to such report."

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting after the words "production of goods for commerce" wherever they appear, the following: "or employed in any enterprise engaged in commerce or in the production of goods for commerce".

MINIMUM WAGES

SEC. 5. (a) (1) Section 6(a) of such Act is amended by inserting after the word "who" in the portion thereof preceding paragraph (1), the words "in any work-week".

(2) Paragraph (1) of section 6(a) of such Act is amended to read as follows:

"(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section."

(3) The first sentence of paragraph (3) of section 6(a) of such Act is amended to read as follows:

"(3) if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time."

(b) Subsection (b) of section 6 of such Act is amended to read as follows:

"(b) Every employer shall pay to each of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s), (1), (2), (3), or (5) or by an establishment described in section 3(s) (4) or (6), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at rates—

"(1) not less than \$1 an hour during the first year from the effective date of such amendments; not less than \$1.05 an hour during the second year from such date; not less than \$1.15 an hour during the third year from such date; and not less than the rate effective under paragraph (1) of subsection (a) thereafter:

"(2) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement)."

(c) Subsection (c) of section 6 of such Act is amended to read as follows:

"(c) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5: *Provided*, That (1) the following rates shall apply to any such employee to whom the rate or rates prescribed by subsection (a) would otherwise apply:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, increased by 15 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1961 or one year from the effective date of the most recent wage order applicable to

such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Beginning two years after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 10 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

"(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1961 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

"(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

"(2) In the case of any such employee to whom subsection (b) would otherwise apply, the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate or rates recom-

mended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1961.

"(3) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee."

MAXIMUM HOURS

SEC. 6. (a) Subsection (a) of section 7 of such Act is amended by designating such subsection as subsection (a) (1), by inserting after the word "who" the words "in any workweek", and by striking out the period at the end thereof and inserting a semicolon and the word "and" in lieu thereof and adding the following new paragraph (2):

"(2) No employer shall employ any of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1), (2), or (5), or by any establishment described in section 3(s) (4), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this subsection, or (ii) is brought within the purview of this subsection by the amendments made to section 13 of this Act by the Fair Labor Standards Amendments of 1961—

"(A) for a workweek longer than forty-four hours during the second year from the effective date of the Fair Labor Standards Amendments of 1961,

"(B) for a workweek longer than forty-two hours during the third year from such date,

"(C) for a workweek longer than forty hours after the expiration of the third year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."

(b) Subsection (b) of section 7 of such Act is amended by striking out "in excess of forty hours in the workweek" in paragraph (2) and inserting in lieu thereof the following: "in excess of the maximum workweek applicable to such employee under subsection (a)".

(c) Subsection (c) of section 7 of such Act is amended by inserting after the subsection designation "(c)" the paragraph designation "(1)", by inserting after the semicolon the paragraph designation "(2)", and by inserting before the period a comma and the following: "except that in any such place of employment in which both clause (2) of this subsection and clause (3) of subsection (b) apply to employees, the number of exempt workweeks shall not exceed ten in any calendar year under each such clause."

(d) Paragraph (5) of subsection (d) of section 7 of such Act is amended by striking out "forty in a workweek" and inserting in lieu thereof the following: "in excess of the maximum workweek applicable to such employee under subsection (a)".

(e) Paragraph (7) of subsection (d) of section 7 of such Act is amended by striking out "forty hours" and inserting in lieu thereof the following: "the maximum workweek applicable to such employee under subsection (a)".

(f) Subsection (e) of section 7 of such Act is amended (1) by striking out "forty hours" and inserting in lieu thereof "the maximum workweek applicable to such employee under subsection (a)", (2) by striking out "section 6(a)" and inserting in lieu thereof "subsection (a) or (b) of section 6 (whichever may be applicable)", and (3) by striking out "forty in any" and inserting in lieu thereof "such maximum".

(g) Subsection (f) of section 7 of such Act is amended by striking out "forty hours" both times it appears therein and inserting in lieu thereof the following: "the maximum workweek applicable to such employee under such subsection".

(h) Section 7 of such Act is amended by adding at the end thereof the following new subsection:

"(h) No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period (not less than one month) represents commissions on goods or services."

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 7. Subsection (a) of section 8 of such Act is amended by inserting after the word "industries" where it appears in the first sentence the words "or enterprises"; and by inserting after the words "production of goods for commerce" where they appear in the second sentence the following: "or in any enterprise engaged in commerce or in the production of goods for commerce".

CHILD LABOR PROVISIONS

SEC. 8. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "or in any enterprise engaged in commerce or in the production of goods for commerce."

EXEMPTIONS

SEC. 9. Subsection (a) and (b) of section 13 of such Act are amended to read as follows:

"(a) The provisions of sections 6 and 7 shall not apply with respect to—

"(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

"(2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, if such establishment—

"(i) is not in an enterprise described in section 3(s), or

"(ii) is in such an enterprise and is a hotel, motel, restaurant, motion picture theater, or an amusement or recreational establishment that operates on a seasonal basis, or

"(iii) is in such an enterprise and is a hospital, or an institution which is primarily engaged in the care of the sick, the aged, the mentally ill or defective, residing on the premises of such institution, or a school for physically or mentally handicapped or gifted children, or

"(iv) is in such an enterprise and has an annual dollar volume of sales (exclusive of excise taxes at the retail level which are separately stated) which is less than \$250,000. A 'retail or service establishment' shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

"(3) any employee employed by any establishment (except an establishment in an enterprise described in section 3(s)(2)) engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment's annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, commercial, or communications business: *Provided further*, That neither the exemption in this paragraph nor in paragraph (2) shall apply to any employee of a hotel, motel, or restaurant who is engaged in laundering, cleaning, or repairing clothing or fabrics where such services are not performed exclusively for such hotel, motel, or restaurant: *Provided further*, That this exemption shall not apply to any employee of any such establishment which has an annual dollar volume of sales of such services of \$250,000 or more and which is engaged in substantial competition in the same metropolitan area with an establishment less than 50 per centum of whose annual dollar volume of sales of such services is made within the State in which it is located; or

"(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or

"(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or

"(6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

"(7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or

"(8) any employee employed in connection with the publication of any weekly, semi-weekly, or daily newspaper with a circula-

tion of less than four thousand the major part of which circulation is within the county where printed and published or counties contiguous thereto; or

"(9) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or

"(10) any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or

"(11) any switchboard operator employed by an independently owned public telephone company which has not more than seven hundred and fifty stations; or

"(12) any employee of an employer engaged in the business of operating taxicabs; or

"(13) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

"(14) any employee employed as a seaman on a vessel other than an American vessel; or

"(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve.

"(b) The provisions of section 7 shall not apply with respect to—

"(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

"(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

"(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

"(4) any employee employed in the canning, processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or

"(5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

"(6) any employee employed as a seaman; or

"(7) any employee of a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, not included in other exemptions contained in this section; or

"(8) any employee of a gasoline service station; or

"(9) any employee employed as an announcer, news editor, or chief engineer by a radio or television station having its major studio in a city or town which has a population of not more than fifty thousand, according to the latest available decennial census figures as compiled by the Bureau of the Census, if such city or town is not part of a standard metropolitan statistical area (as

defined and designated by the Bureau of the Budget) having a total population in excess of fifty thousand; or

"(10) any employee of an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if (A) the annual gross volume of sales of such enterprise is not more than \$1,000,000 exclusive of excise taxes, and (B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and (C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale; or

"(11) any employee of a retail or service establishment primarily engaged in the business of selling automobiles, trucks, or farm implements; or

"(12) any employee employed as a driver or driver's helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Secretary shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum work-week applicable to them under section 7 (a)."

EMPLOYMENT OF STUDENTS

SEC. 10. Clause (1) of section 14 of such Act is amended by striking out "and" after "apprentices," and by inserting after "messages," the following: "and of full-time students outside of their school hours in any retail or service establishment: *Provided*, That such employment is not of the type ordinarily given to a full-time employee."

PENALTIES AND INJUNCTION PROCEEDINGS

SEC. 11. (a) Section 16(b) of such Act is amended by adding at the end thereof a new sentence as follows: "The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection."

(b) Section 17 of such Act is amended to read as follows:

"INJUNCTION PROCEEDINGS

"SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15(a)(2) the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947)."

STUDY OF AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS

SEC. 12. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(c), 13(a)(10) and 7(b)(3), and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the

results of such study and information, data and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

EFFECTIVE DATE

SEC. 13. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided in such amendments and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act.

SUMMARY OF MINIMUM WAGE BILL (H.R. 3935) AS REPORTED BY SENATE LABOR COMMITTEE

1. For presently covered employees the minimum wage is increased to \$1.15 an hour for the first 2 years after the effective date and \$1.25 an hour beginning 28 months after the effective date (23,900,000 covered).

2. For newly covered employees, the minimum wage will be: First year, \$1; second year, \$1.05; third year, \$1.15; fourth year, \$1.25.

3. Overtime compensation for the newly covered will be as follows: First year, no limitation; second year, 44 hours; third year, 42 hours; fourth year, 40 hours.

4. Retail trade (2,450,000): The bill covers retail enterprises which have a million dollars or more in annual sales (exclusive of excise taxes at the retail level) and which purchase or receive goods for resale that move or have moved across State lines which amount in total annual dollar volume of \$250,000 or more.

From this coverage in the retail trade the bill excludes the following:

- a. Hotels.
- b. Motels.
- c. Restaurants, including lunch counters, caterers, and similar retail food services.
- d. Hospitals.
- e. Nursing homes.
- f. Schools for handicapped or gifted children.
- g. Motion picture theaters.
- h. Amusement or recreational establishments operating on a seasonal basis.
- i. Any small store which has less than \$250,000 in annual sales even if it is in an enterprise that has more than \$1 million in annual sales.

In addition, the bill makes the following special provisions for particular problems in the retail and service trades:

a. Gasoline service stations which are covered for minimum wage if they have \$250,000 (exclusive of excise taxes at the retail level) or more in annual sales, are exempt from the overtime requirements.

b. Auto dealers and farm implement retail dealers are exempt from the overtime requirements.

c. Assistant managers of retail stores will be exempt even if they perform up to 40-percent nonexecutive and nonadministrative work.

d. Commission employees will be exempt from overtime if more than half their pay is from commissions and if they earn at least time and one-half the minimum rate.

e. Student workers may be employed in retail trades at subminimum rates under certificates granted by the Secretary in occupations not ordinarily given to full-time employees.

5. Laundries (140,000): Laundry enterprises are covered for minimum wage and overtime if they have a million dollars or more in annual sales (exclusive of excise taxes at the retail level). Further, the existing exemption for such laundries is limited so that it will not apply to any laundry which does more than 25-percent commercial work or to any laundry which has \$250,000 in annual sales and is in competition in the same metropolitan area with a laundry which does more than half of its work across state lines. Finally, laundry workers in hotels and restaurants are exempt only if they work in a laundry of their own establishment.

6. Local transit companies (110,000): Covered for minimum wage but not for overtime.

7. Establishments which already have some covered employees under the act (100,000) are covered for all their employees if they are in an enterprise which has a million dollars or more in annual sales.

8. Construction (1,000,000): Construction enterprises which have at least \$350,000 in annual business are also covered for minimum wage and overtime.

9. Seamen (100,000): Seamen of American flag vessels are covered for minimum wage but not for overtime.

10. Telephone operators (30,000): The exemption for telephone operators is limited to those employed by an independently owned public telephone company which has not more than 750 telephones.

11. Fish processing (33,000): Seafood processing employees are covered for minimum wage but not for overtime (seafood canners are treated in this way under the present law).

12. Processing and canning of agricultural commodities: The combined 28-week overtime exemption for such activities is reduced to 20 weeks—10 unlimited and 10 limited to 12 hours a day and 56 hours a week.

13. Puerto Rico: The minimum wage in Puerto Rico is increased by the same percentage as the mainland minimum, subject to review by industry committees in hardship cases.

14. Broadcasters: Announcers, news editors, and chief engineers of broadcasting companies located in cities of 50,000 or less population are exempt from overtime.

15. Bulk petroleum dealers: Independently owned and controlled local bulk petroleum distributors are exempt from overtime if their annual sales are less than \$1 million (exclusive of excise taxes).

16. Trip rates: Trip rate drivers and drivers' helpers making local deliveries are exempt from overtime if the Secretary of Labor finds that the plan under which they are paid is consistent with the principle of the 40-hour workweek.

17. Other provisions:

a. Board and lodging may be included as wages on a basis of a fair value calculation made by the Secretary. Also, such perquisites may be excluded from wages to the extent that they are excluded under a collective bargaining agreement.

b. The Secretary is authorized to study the employment effects of the Import and the export trade in industries covered by the act and to report such studies to the President and to the Congress.

c. The Secretary is required to study the complicated system of exemptions in the act for the handling and processing of agricultural products and to report the results and recommendations to the next session of this Congress.

Total newly covered employees: 4,100,000.

REPORTS ON UTILIZATION OF FOREIGN CURRENCIES AND U.S. DOLLARS BY CERTAIN COMMITTEES

Mr. HAYDEN. Mr. President, in accordance with the Mutual Security Act of 1954, as amended, I ask unanimous consent to have printed in the RECORD the reports of the Senate Committee on

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

CONTENTS

Issued April 14, 1961
For actions of April 13, 1961
87th-1st, No. 62

Adjournment.....	16
Appropriations.....	12
Budget.....	21
Committees.....	5
Conservation.....	26
Consumers.....	9
Depressed areas.....	11
Downgrading.....	30
Electrification.....	29
Employment.....	25
Farm labor.....	18
Farm loans.....	8
Feed grains.....	22
Food for peace.....	4
Foreign aid.....	20
Foreign trade.....	32
Forestry.....	10,37
4-H Clubs.....	19
Hearing examiners.....	3
Income taxes.....	30
Lands.....	31,35
Legislative program.....	14
Minimum wage.....	1,23
Nominations.....	40
Personnel.....	7,30
Property.....	39
Public Law 480.....	14,41
Regulatory agencies.....	3
Research.....	34,36
Retirement.....	30
Roads.....	33
Rural areas.....	28
School lunch.....	2
Soil conservation.....	24
Stockpiling.....	6
Surplus commodities.....	6,41
Veterans' loans.....	13,38
Water pollution.....	27
Water resources.....	17,31
Watersheds.....	15
Weather.....	34
Wildlife.....	39

HIGHLIGHTS: Senate debated minimum wage bill. Sen. Wiley urged additional funds for school lunch program. House committee granted permission to report Interior appropriation bill. Both Houses received President's message on regulatory agencies.

SENATE

1. MINIMUM WAGE. Began debate on H. R. 3935, to amend the Fair Labor Standards Act and increase the minimum wage gradually to \$1.25 an hour. pp. 5441-2, 5456-5509, 5510-12, 5525-26, 5528, 5532-49

As reported by the Labor and Public Welfare Committee the bill included the following provisions: increases the minimum wage for presently covered employees to \$1.15 an hour for the first 2 years after the effective date and to \$1.25 an hour beginning 28 months after the effective date; increases the minimum wage for newly covered employees over a 4-year period from \$1 to \$1.25 an hour; provides that the combined 28-week overtime exemption for employees in

the processing and canning of agricultural commodities shall be reduced to 20 weeks -- 10 unlimited and 10 limited to 12 hours a day and 56 hours a week; provides that the Secretary of Labor shall study the system of exemptions in the act for the handling and processing of agricultural products and report the results and recommendations to the next session of Congress; and extends coverage of the act to an additional 4,100,000 workers.

2. SCHOOL LUNCH. Sen. Wiley urged enactment of legislation to provide additional funds for the school lunch program and inserted numerous letters he had received favoring additional funds for the program. pp. 5449-52
3. REGULATORY AGENCIES. Both Houses received the President's message on regulatory agencies (H. Doc. 135). The President recommended that hearing examiners be exempt from the Classification Act and receive salaries equivalent for grades GS-16 and GS-14, with the higher salary for examiners in major regulatory agencies, that the Chief Hearing Examiner in each agency receive \$500 per annum additional compensation, and that the Civil Service Commission review and raise its current examining standards and practices for hearing examiners. pp. 5356-60, 5519-22
4. FOOD FOR PEACE. Sen. Humphrey commended the food for peace program and inserted recent speeches by James W. Symington and Herbert J. Waters discussing the program and two articles, including a biography of George S. McGovern, director of the program. pp. 5512-16
5. COMMITTEES. Agreed to without amendment S. Res. 117, to change the name of the Committee on Interstate and Foreign Commerce to the Committee on Commerce. The measure had been reported without amendment earlier by the Rules and Administration Committee (S. Rept. 146). p. 5413
6. STOCKPILING; SURPLUS COMMODITIES. Received from the Joint Committee on Reduction of Nonessential Federal Expenditures a report on Federal stockpile inventories, including CCC commodity inventories for Feb. 1961. pp. 5414-20
7. PERSONNEL. Received from the Joint Committee on Reduction of Nonessential Federal Expenditures a report on Federal employment and pay for Feb. 1961. pp. 5420-3
Sen. Carlson expressed concern over the removal of some career civil service employees after changes in administration, stated that he had received "some complaints from individuals who felt they were removed regardless of the protection of the civil service rules and regulations," and inserted an article, "World Leadership and Petty Patronage." pp. 5436-7
Sen. Humphrey commended the President's Executive order establishing the Committee on Equal Employment Opportunity "to bring about an end to job discrimination in Government and by Government contractors" and inserted several items commending the order. pp. 5516-8
8. FARM LOANS. Sen. Neuberger commended Secretary Freeman for asking the "Farmers Home Administration of the Department to review the regulations and to take all action within its authority to meet farm credit needs" and inserted a table summarizing FHA loan activity in Ore. pp. 5438-9
9. CONSUMERS. Sen. Pell urged greater consideration of the interests of consumers and inserted an article, "Voice of the Consumer is Heard in Capital." pp. 5452-3

commodities have shown steady growth and radical progress has been made with respect to some of the newer metals.

It is, however, in the group of metals which in their own right are as essential to our economic well being as oil that serious difficulties have been encountered in recent years. I speak primarily of lead, zinc, and copper.

Lead and zinc have been subject to declining domestic production and increasing pressures from imports. The copper industry has been affected materially by events in distant parts of the world with resulting instability, although production has expanded. Speaking parenthetically, these generalizations should have a familiar ring to this audience.

These are pressing problems which require—and which will get—a substantial portion of my energies and the energies of my staff.

In coal, we have the problem of an underdeveloped, underused natural resource. Let me say, at this point, that underdevelopment of a vital natural resource is as abhorrent to true conservation as wasteful use.

The coal industry today has fewer employed miners than in the year 1890—the first year for which reliable statistics are available. Coal production declined drastically from 1947 to 1958, and, while minor gains were achieved in 1959 and 1960, the rate of activity is falling again in 1961.

We have a coal industry which cannot be allowed to decline, if it is expected to meet the greatly increased demands which would be placed upon it in time of national emergency. This is a disturbing situation—a situation to which the Department of the Interior will direct its efforts to alleviate.

In oil, we have almost a parallel situation. Current refinery capacity and current crude oil productive capacity in the United States, even after allowance for a defense reserve, exceeds the consumptive capacity of the American people.

However, this is more closely defined as a current economic problem, as distinct from some of the more technological problems which stand in the way of a marked increase in coal consumption. No matter which economic crystal ball you look into, the picture is always the same: Progressively mounting petroleum requirements in the years ahead.

Here is the crux of the petroleum problem. Reserves of crude oil available to the people of the United States must be abundant, must be secure, and must be available on a reasonable economic basis.

In this regard, we are distressed by the 1960 showing in exploration and development. In 1960, the volume of new crude oil discovered in the United States was only slightly higher than in 1946. Furthermore, the addition to proven reserves by extension of known fields was the lowest in 10 years. It was only through an increase in natural gas liquids that total liquid hydrocarbon reserves made any advance over 1959 levels. Here also, the picture is not completely bright because the discovery rate of natural gas liquids was also declining.

Although we have skirted them briefly, I think we can see a similarity in the various minerals problems of the Nation, a basic pattern of immediate abundance of resources, underdeveloped demand, and overdeveloped productive capacity.

These problems present a unique, tremendous challenge to American ingenuity, for we must show the world we have the maturity and vision to make our basic abundance a blessing, rather than a millstone around our economic necks.

Turning now to the more immediate matters of interest, Secretary Udall has pledged the Department of the Interior to a "new look" at the oil import program—the philosophy which underlies it, the machinery by

which it operates, and the effectiveness of this machinery in meeting the objectives of the program.

This searching reappraisal for residual fuel oil has been completed. We feel that some of the earlier inequities have been eliminated and that the residual portion of the program is more firmly based, more responsive to public policy, and more soundly geared to efficient supply and distribution.

We intend to give the crude oil portion of the program equal scrutiny in the weeks ahead. I can announce today that two public hearings have been scheduled—one in Washington on May 10 and 11, the other in Los Angeles on May 4.

We come now to the subject of another review—that of a congressional fuels study, a study of no little controversy in the petroleum industry.

ADMINISTRATION ENDORSES FUELS STUDY

President Kennedy and Secretary Udall have firmly endorsed a balanced, long-range fuels study which uses the test of the public good as its cardinal principle. In Secretary Udall's words:

"We cannot in something as important as fuels and energy let policy be set by drift and default."

For this reason, the administration is supporting legislation which provides for a thorough study in the national interest.

Let me say this: No one can dispute the right of the Congress of the United States to initiate such a study.

Let me also add this: Unthinking, blind opposition within the petroleum industry to an impartial, long-range study can easily leave the mistaken impression that the interests of the industry are somewhat different than the interest of the Nation as a whole.

For these reasons, I am personally gratified that in recent weeks, many responsible leaders within the petroleum industry have endorsed a national fuels study.

We have much to gain from a thorough look at where we have been, where we are, and where we are going. I, for one, would like to know the answers to some of the more searching questions, questions such as:

What public policies are necessary to insure an adequate, dependable fuel supply for the Nation in order to achieve a healthy, balanced development of the national economy?

Can our present Federal, State, and local laws and programs promote the public interest in the wise development of our fuel resources?

Finally, how can we define in specific terms what the public interest really is, when confronted with the technical, economic, and international problems entailed in fuel resource development and use?

President Kennedy, in his state of the Union message, cautioned our Nation that we "cannot escape our dangers—neither must we let them drive us into panic or narrow isolation."

He meant not only panic and narrow isolation in the more conventionally understood area of foreign affairs, but also panic and narrow isolation from ourselves and our society.

We are back on the frontier—but this frontier extends into space and time, inward into the scientific core of matter itself, and outward to the friendship and loyalty of all free men. We each have a part to play, a contribution to make to others, and to ourselves in the process. Time will not let us wait, nor can we shirk or avoid our mutual responsibility to a common goal and a common ideal.

This is not the decade—nor the century—for the soft look, or the soft compromise, or the soft way to a shaky security. It is, instead, a time for determination, for devotion, for daring.

This is the way America is going, and the oil industry will go with it—or be left behind. This industry has always accepted its challenges and performed with honor and credit in national emergency. This vigor, this vitality, must now become the daily watchword of an industry moving forward in the mainstream of American life and American purpose.

I thank you very much.

The PRESIDING OFFICER. Is there further business.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

Mr. RUSSELL. Madam President, I send to the desk an amendment in the nature of a substitute which I intend to propose to H.R. 3935, the minimum wage bill. I ask that it may be printed and lie on the table.

The PRESIDING OFFICER (Mrs. NEUBERGER in the chair). The amendment will be received and printed, and will lie on the table.

Mr. RUSSELL. Madam President, I may say that there are two very substantial issues involved in the proposed legislation; one is the question of the increase in the minimum wage, and the other is the extent of new coverage under the act.

The effect of the substitute would be to divorce those issues and have them considered separately and independently. The substitute I intend to offer conforms to the committee bill and the recommendations of the administration as to the amount of the minimum wage; that is, it would increase it to \$1.15, and, after a 2-year period, it would be increased to \$1.25. However, the substitute would not increase the coverage. It would be confined to its present limitations.

Madam President, I am gravely concerned about the reckless manner in which we legislate on the Federal level with respect to matters which have heretofore been considered as wholly within the jurisdiction of the several States.

The philosophy of the school I attended—of course some people would say that probably I attended school too long ago—does not permit me to accept the new constitutional dispensation that the Constitution changes with conditions. I cannot at all accept that theory. Conditions may make it necessary for us to change the Constitution in the manner which is prescribed in that document, but no conditions, however grave they may be, can change the plain wording and intent of our Constitution. It cannot be changed because of economic changes. The Constitution itself cannot be changed on account of political changes. It cannot be changed merely because men in high places, even on the U.S. Supreme Court, may change their minds.

I cannot accept the theory that mere questions of dollar volume can change the constitutional power of the State as against the Federal power.

I wish to vote for an increase in the minimum wage, but I cannot do so if it is tied to an extension of coverage dealing with questions that ought to be con-

sidered extensively and in minute detail. I would stultify myself if I voted in favor of such a comprehensive bill merely because I favor one part of it, namely, the increase in the minimum wage.

Madam President, I have been busily engaged on other matters. I have been in attendance at extensive hearings of the Committee on Armed Services, and I have not been able to keep up with all the facets of the proposed legislation now about to be brought before us.

I have just now picked up a copy of the bill and I find that the very first section of the bill contains a delegation of power to the Secretary of Labor to determine the fair value of the cost of board, lodging, or other facilities that may go to any employee.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DIRKSEN. Madam President, I will take some time. I yield time to the Senator from Georgia.

Mr. RUSSELL. I thank the distinguished Senator from Illinois.

This language shows the manner and extent to which we are asked to cast the whole country into one common mold. A man sitting in Washington would issue one regulation to assess the value of board, lodging, and other facilities in every community of the United States.

I did not have an opportunity to read the whole bill, but I saw that one section this morning, and I said to myself I cannot understand how a deliberative legislative body could rush through legislation of this nature without carefully considering every aspect of it.

So, Madam President, I have simplified the matter. I am proposing, with my substitute amendment, to increase the minimum wage to the amount the administration desires, first to \$1.15, then to \$1.25. I propose that we stop there. Then let us come back and deal with these delicate matters which have to do with the power of the Federal Government as contrasted with—and in this case conflicting with—the reserved powers of the several States under the 10th amendment to the Constitution.

Mr. DIRKSEN. Madam President, will the Senator yield?

Mr. RUSSELL. I yield.

Mr. DIRKSEN. I might say to the distinguished Senator from Georgia that last year and again this year we made it abundantly plain that there could be a minimum wage bill if a simplified bill were accepted, one which preserved the commerce feature and put the emphasis on the increased minimum wage, and let it go at that. The constitutional issue I raised with the Secretary of Labor in committee. We have discussed the question extensively. There are so many arbitrary things in the bill. I am glad to see and to hear the distinguished Senator from Georgia, because we are faced with a deeper and deeper intrusion of the Federal bureaucratic hand into local affairs.

I could never find anyone, including the Secretary of Labor, who could tell me what was interstate commerce about a laundry, where all the machinery was fixed, and the operator bought all his soap, soap powder, and starches within

the State. I want someone to tell me how the fact that such an enterprise does a million dollars worth of business puts it within the category of interstate commerce. I simply do not understand it.

Mr. RUSSELL. My opinion, evaluated with my oath of office, is that the interstate commerce clause has already been badly stretched under the present application of the law. I would stultify myself if I were to vote to vest so completely in a Federal official in Washington the power over the lives of so many millions of Americans and so great a power over the businesses of this country, including small businesses, which have already been almost stifled to death by the vast combines and combinations.

COMPETITION IN SPACE SCIENCE

Mr. HARTKE. Madam President, the achievement of Soviet science yesterday in orbiting a man around the earth is comparable only to the previous Russian space first of orbiting a satellite before any others. Just as sputnik marked a new trail in the field of outer space, so does the 1½-hour trip of the Red air force major.

I am reminded at this time of an article written for U.S. News & World Report last fall by my friend, Marvin L. Stone. At that time, having just completed a trip to several of our space centers, Mr. Stone wrote that a Russian would be the first man to ride in outer space. He also wrote that our space authorities felt that we were not competing with Russia and that we should ignore Soviet competition.

We are not in a race with anyone in the traditional sense. We must not allow our goals and policies to be dictated by any other nation. But we cannot ignore what the others do, especially in this ever-changing world.

It would be patently foolish for us to laugh off the Soviet achievement. It is just as foolish to claim that we are not in competition with Russia and its Communist system.

I have often said that we are truly and basically in a race with ourselves. Are we doing our best? I do not think we have been doing our best.

When America does her best without thinking in traditional terms of a race, she will win the race with others.

Thus we are first in a race with ourselves. Then we are also in a race with Russia. It is a deadly race, a race for men's minds, a race whose winner may be chosen by the uncommitted peoples of the world.

We know that American achievements in space and in the peaceful use of space, in scientific achievement for the betterment of mankind, have often surpassed those of the Soviets. But it is not enough to say that we have orbited 40 vehicles to their 15 or that we lead in some phases of space development.

Americans, I am sure, know that we lead in some phases. But Americans have a right to resent being in second place in any of these important scientific achievements.

This is certainly no time to alibi or apologize. The Russian achievement is great, and their scientists deserve congratulations. We must recognize that their political leaders had great foresight in realizing the propaganda value of sputnik and the cosmonaut.

I am certain Madam President, that this is not the time or the place to try and fix the blame for why we are once more second-best. Even if it were, I do not pretend to be the expert to examine our position vis-a-vis the Soviets. Many of my colleagues are far more astute and learned in this field.

It behooves us to examine our attitude as political leaders in America, however.

When Russia launched sputnik, the previous administration passed it off as of no real scientific consequence. Even if this were true, the propaganda value at the time when there is real competition for the minds of men was being ignored. There was no sense of urgency; no realization that we were, indeed, being challenged by Russia.

Let us not make this same mistake now.

I do not believe we will. I believe that President Kennedy was sounding the correct note when he said over and over during the last campaign, "We can do better."

There is today throughout Washington, and there has been since January 20, a feeling of urgency, a new desire to move ahead and get things done. Certainly, the days between January 20 and April 13 have not been many in which to surpass Russia in the field of rocket thrust and other research needed to orbit a man.

We can only hope that this new zeal that has been brought to Government will result in the kind of deeds about which we will soon be able to brag—in outer space and in other fields of endeavor. We can only hope that we shall never again be lulled into the luxurious complacency of belief that we are challenged by the Russians everywhere, in everything, and that they are immensely capable and resourceful. If we do our best, we shall surmount the challenge.

THE SOFT FRONTIER

Mr. SCHOEPEL. Madam President, as you know, the West was settled by a hardy breed who believed that the promises of the new land justified the perils and privations that must be met to make them come true. Leaving safety and comfort behind, they dared to take the future into their own hands. From Government they asked and got only the assurance that the land would be theirs when they had proved themselves strong enough to hold it.

The individual's faith in his own sinew and toughness paid off in a spectacular national growth rate and an increasing gross national product—although the people responsible were not concerned with the one and had never heard of the other.

Along the same line, Madam President, there appeared in the Nation's Business for April 1961, an article entitled "The Soft Frontier." I ask unanimous consent

the side of Washington, Hampden, and Sidney.

"It is a part of our public history which can never be forgotten that both Houses of Congress in July 1861 declared in the form of a solemn resolution that the war was and should be carried on for no purpose of subjugation, but solely to enforce the Constitution and laws, and that when this was yielded by the parties in rebellion the contest should cease, with the constitutional rights of the States and of individuals unimpaired.

"This resolution was adopted and sent forth to the world unanimously by the Senate and with only two dissenting voices in the House. It was accepted by the friends of the Union in the South as well as in the North as expressing honestly and truly the object of the war. On the faith of it, many thousands of persons in both sections gave their lives and their fortunes to the cause. To repudiate it now by refusing to the States and to the individuals within them the rights which the Constitution and laws of the Union would secure to them is a breach of our plighted honor for which I can imagine no excuse and to which I cannot voluntarily become a party.

"While we are legislating upon subjects which are of great importance to the whole people, and which must affect all parts of the country, not only during the life of the present generation, but for ages to come, we should remember that all men are entitled at least to a hearing in the councils which decide upon the destiny of themselves and their children.

"At present 10 States are denied representation, and when the 40th Congress assembles on the 4th day of the present month, 16 States will be without a voice in the House of Representatives.

"This grave fact, with the important questions before us, should induce us to pause in a course of legislation which, looking solely to the attainment of political ends, fails to consider the rights it transgresses, the law which it violates, or the institutions which it imperils."

For this courageous and sturdy stand in defense of the Constitution, Andrew Johnson was subjected in the Senate to a trial for impeachment which failed by a narrow margin.

The record is not one of which the people of the United States can be proud.

What are we to make of the conflicting views of the Constitution which were enunciated by men in high places during this tragic era? Where shall we look for an impartial judgment? Shall we look to the lawyer, or shall we look to the historian?

WOODROW WILSON: CONSTITUTION IS THE "SKELETON FRAME OF A LIVING ORGANISM"

Woodrow Wilson was a lawyer who became a historian. While professor of jurisprudence at Princeton University in 1893—long enough after the tragic events to view them dispassionately—he wrote a book called "Division and Reunion," surveying the 60-year period between 1829 and 1889. Mr. Wilson wrote:

"Delegates, appointed by the several conventions in the seceding States met in Montgomery, Ala., on the 4th of February 1861, framed a provisional constitution and government for the Confederate States of America, and chose Jefferson Davis of Mississippi provisional President, Alexander H. Stephens of Georgia provisional Vice President. In March a permanent constitution was adopted to take effect the next year.

"The legal theory upon which this startling and extraordinary series of steps was taken was one which would hardly have been questioned in the early years of the Government, whatever resistance might then have been offered to its practical execution. It was for

long found difficult to deny that a State could withdraw from the federal arrangement, as she might have declined to enter it.

"But constitutions are not mere legal documents: they are the skeleton frame of a living organism; and in this case the course of events had nationalized the Government once deemed confederate.

"Twenty States had been added to the original 13 since the formation of the Government, and almost all of these were actual creations of the Federal Government, first as Territories, then as States. Their populations had no corporate individualities such as had been possessed by the people of each of the colonies. They came from all parts of the Union, and had formed communities which were arbitrary geographical units rather than natural political units. Not only that, but north of the Missouri Compromise line the population of these new States had been swelled by immigration from abroad; and there had played upon the whole northern and northwestern section those great forces of material development which made steadily for the unification of interests and purposes. The 'West' was the great makeweight. It was the region into which the whole national force had been projected, stretched out, and energized—a region, not a section; divided into States by reason of a form of government, but homogeneous, and proceeding forth from the Union.

"These are not lawyer's facts: they are historian's facts. There had been nothing but a dim realization of them until the war came and awoke the national spirit into full consciousness. They have no bearing upon the legal intent of the Constitution as a document, to be interpreted by the intention of its framers; but they have everything to do with the Constitution as a vehicle of life.

"The South had not changed her ideas from the first, because she had not changed her condition. She had not experienced, except in a very slight degree, the economic forces which had created the great Northwest and nationalized the rest of the country; for they had been shut out from her life by slavery. The South withdrew from the Union because, she said, power had been given to a geographical, a sectional party, ruthlessly hostile to her interests; but Dr. von Holst is certainly right when he says: 'The Union was not broken up because sectional parties had been formed, but sectional parties were formed because the Union had actually become sectionalized.'

"There had been nothing active on the part of the South in this process. She had stood still while the rest of the country had undergone profound changes; and, standing still, she retained the old principles which had once been universal. Both she and her principles, it turned out, had been caught at last in the great national drift, and were to be overwhelmed. Her slender economic resources were no match for the mighty strength of the Nation with which she had fallen out of sympathy."

Does not the above sound strangely familiar? Is it not this argument which is being stretched today to cover the claim that "evolution" permits the Supreme Court to ignore past precedents, and that the method of amending the Constitution as provided in the document itself is really an unnecessary or "cumbersome" process?

The real issue, however, is not that change is inevitable, but how we shall effect such changes. Shall they be made by constitutional conventions in the States, by the action of the State legislatures, by the action of two-thirds of the Congress? Shall we ever again "adopt" by vote of both houses of Congress—to which Representatives and Senators from certain States are denied admission—constitutional amendments that are submitted to artificially established legislatures which, at the point of the bayonet,

are compelled to approve them in order that they might be "ratified" by three-fourths of the States, as required for a constitutional amendment? This is the sad story which no amount of argument can change, because it is contained in the facts of our own history.

Woodrow Wilson himself, in his book, raised doubts as to validity of the amendments adopted when military rule was imposed upon the Southern States in Reconstruction days. He wrote:

"Now that the war was over, what was the status of the States which had attempted secession? Were they still members of the Union, and could their participation in its affairs be resumed just where it had been left off? Here was another situation for which the Constitution had made no provision.

"If, as the Supreme Court subsequently held, in the leading case of *Texas v. White* (1869), the Government from which they had sought to withdraw was 'an indestructible Union of indestructible States,' they had, in legal theory at any rate, succeeded neither in severing their connection with the Federal Government nor in destroying their own existence as States. They were still States, and States in the Union.

"But what sort of States, and in what condition? In what relation did they now stand to the Government they had sought to destroy? The President and Congress had not been in agreement upon these questions. Congress had not even been careful to be consistent with itself in its actions concerning them. * * *

"The President [Andrew Johnson] pushed forward the processes of reconstruction in the other States. May 29, 1865, he put forth an amnesty proclamation, which was substantially the same as Mr. Lincoln's, although it considerably increased the list of those who were to be excluded from its privileges. By the middle of July he had appointed provisional Governors in all the States not yet reorganized.

"The voters in those States who could qualify under the proclamation at once proceeded to hold constitutional conventions and erect governments under them, being assured of the President's recognition and support, should they agree to the abolition of slavery and establish governments which seemed to him republican in form within the meaning of the Constitution. In every State, except Texas, these processes were complete by the autumn of 1865, and Senators and Representatives from the Southern States were ready to apply for admission to their seats when Congress should convene.

"The new southern legislatures, moreover, had in the meanwhile ratified an amendment to the Constitution which Congress had adopted the previous winter; and without their ratification this amendment would lack that assent of three-fourths of the States which the terms of the Constitution made indispensable to its validity.

"February 1, 1865, Congress had proposed to the States a 13th amendment to the Constitution, which should prohibit both slavery and involuntary servitude 'within the United States or any place subject to their jurisdiction.'

"It was accepted by 11 of the former slaveholding States, however, together with 16 free States; and on December 18, the Secretary of State, Mr. Seward, made official proclamation of its embodiment in the Constitution by the constitutional vote of 27 of the 36 States. If the Southern States did not have regular and legitimate governments, was this amendment (the 13th) valid?"

Mr. Wilson described the operations of the famous Reconstruction Act of 1867—which was passed over President Johnson's veto—as follows:

"The Southern States, with the exception of Tennessee, which had already been admitted to representation, were to be grouped

in five military districts, which were to be put under the command of generals of the Army appointed by the President. These military commanders were themselves to conduct the process of reconstruction. They were to enroll in each State, upon oath, all the male citizens of 1 year's residence not disqualified to vote by reason of felony or excluded under the terms of the proposed 14th amendment; and they were then to hold an election in each State for delegates to a State convention, in which only registered voters should be permitted to vote or to stand as candidates, the number of delegates to be chosen being apportioned according to the registered vote in each voting district.

"These conventions were to be directed to frame constitutions extending the franchise to all classes of citizens who had been permitted to vote for delegates; the constitutions so framed were to be submitted to the same body of voters for ratification, and, if adopted, were to be sent to Congress, through the President, for its approval.

"When its constitution should have been approved by Congress, each of the reconstructed States was to be readmitted to representation as soon as its new legislature had ratified the 14th amendment. Meanwhile, its government was to be deemed 'provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, control, or supersede the same.' Such was the policy of 'thorough' to which Congress had made up its mind.

"Its practical operation was of course revolutionary in its effects upon the Southern governments. The most influential white men were excluded from voting for the delegates who were to compose the constitutional conventions, while the Negroes were all admitted to enrollment. Unscrupulous adventurers appeared, to act as the leaders of the inexperienced blacks in taking possession, first of the conventions, and afterwards of the State governments; and in the States where the Negroes were most numerous, or their leaders most shrewd and unprincipled, an extraordinary carnival of public crime set in under the forms of law.

"Negro majorities gained complete control of the State governments, or, rather, Negroes constituted the legislative majorities and submitted to the unrestrained authority of small and masterful groups of white men whom the instinct of plunder had drawn from the North.

"Taxes were multiplied, whose proceeds went for the most part into the pockets of these fellows and their confederates among the Negroes. Enormous masses of debt were piled up, by processes both legal and fraudulent, and most of the money borrowed reached the same destination.

"In several of the States it is true that after the conventions had acted, the white vote was strong enough to control, when united; and in these reconstruction, when completed, reinstated the whites in power almost at once. But it was in these States in several cases that the process of reconstruction was longest delayed, just because the white voters could resist the more obnoxious measures of the convention; and in the meantime there was military rule.

"Meantime, however, a sufficient number of ratifications had been obtained for the 14th amendment; and on the 28th of July, 1868, it was finally proclaimed part of the fundamental law. A 15th amendment, moreover, had been added. February 26, 1869. Congress had proposed an amendment specifically forbidding either the United States or any State to deny or abridge the right of citizens of the United States to vote 'on account of race, color, or previous condition of servitude;' and it was agreed to make it a further condition precedent to the admission of Virginia, Georgia, Mississippi, and Texas, belated in their recon-

struction, that their legislatures should ratify this, as well as the 14th amendment. It was adopted by the necessary number of States, and finally declared in force March 30, 1870."

What shall we say of this turbulent period? Was it an era in which the rule of law was respected? Or was it a period of high emotion, tension, and passion in which rules of law were flagrantly disregarded?

These chapters in American history need careful study again and again in order that there may never be a recurrence of their ill-fated pages.

We are quick to condemn other nations nowadays for the use of military force as a substitute for the will of the people. We are quick to condemn atrocities that occur when despotic and totalitarian governments impose their will upon a helpless nation. People in glass houses should not throw stones, but, on the other hand, many of us in America feel that we have learned our lesson and that we are better able now to espouse the cause of freedom and to insist upon a rule of law than we have been in the past.

For a rule of law must come eventually, not only in our country but throughout the world. The world cannot be ruled by passion. Certainly, also, when constitutions are written, they must not be changed capriciously or arbitrarily by just a few men. Fundamental points should be resolved by the people, voting in the normal democratic process. It is this reform which is most needed, and it is this lesson which the Civil War teaches us today as a guide for the future of America.

Might does not make right.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

Mr. MANSFIELD. Madam President, I move that the Senate proceed to the consideration of Calendar No. 127, House bill 3935.

The PRESIDING OFFICER. The bill will be read by title, for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. HOLLAND. Madam President—

Mr. GOLDWATER. Madam President—

The PRESIDING OFFICER. The motion is not debatable.

Mr. GOLDWATER. Madam President, I should like to comment on this matter, if the majority leader does not object.

Mr. MANSFIELD. Certainly.

Mr. HOLLAND. Madam President, I rise to a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Florida will state it.

Mr. HOLLAND. Did the majority leader move that the Senate proceed to the consideration of this measure, or did he ask unanimous consent that the Senate proceed to its consideration?

Mr. MANSFIELD. I made a motion to that effect.

Mr. HOLLAND. I thank the Senator. The PRESIDING OFFICER. Under the rules of the Senate, the motion is not debatable.

Mr. HOLLAND. Madam President, several of us, I believe, wish to make some preliminary remarks. I am one; and I see other Senators on their feet.

Mr. MANSFIELD. Madam President, I wonder whether the bill may first be laid before the Senate. Then Senators can proceed to speak for as long as they may wish. No attempt will be made to rush the bill through. If the motion is agreed to, I shall suggest the absence of a quorum; and then the debate can get under way. My motion is a simple one, which ordinarily does not encounter any difficulty.

Mr. HOLLAND. Do I correctly understand that the pending motion is to have the Senate proceed to the consideration of the bill?

Mr. MANSFIELD. That is correct.

Mr. HOLLAND. Such a motion is debatable; and I do not believe the situation is an ordinary one, at all, when it is asked that there be no debate on the motion.

I am willing to accord all possible courtesy to the distinguished majority leader; but I do not think it should be stated for the RECORD that, as a matter of courtesy, any comment on a motion to make the bill pending business should be waived.

I wish to be heard on this matter, although I am willing now to yield to the Senator from Arizona [Mr. GOLDWATER], who is a member of the committee.

Mr. MANSFIELD. Madam President, who has the floor?

The PRESIDING OFFICER. The Senator from Montana.

The Senate rule provides that all motions made before 2 o'clock, to proceed to the consideration of any matter, shall be determined without debate.

The question is on agreeing to the motion of the Senator from Montana. [Putting the question.]

The motion was agreed to; and the Senate proceeded to consider the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 per hour, and for other purposes, which had been reported from the Committee on Labor and Public Welfare, with an amendment, to strike out all after the enacting clause and insert:

That this Act may be cited as the "Fair Labor Standards Amendments of 1961".

DEFINITIONS

SEC. 2. (a) Paragraph (m) of section 3 of the Fair Labor Standards Act, of 1938, as amended, defining the term "wage", is amended by inserting before the period at the end thereof a colon and the following: "Provided, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further*, That the Secretary

is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee."

(b) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs:

"(p) 'American vessel' includes any vessel which is documented or numbered under the laws of the United States.

"(q) 'Secretary' means the Secretary of Labor.

"(r) 'Enterprise' means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That, within the meaning of this subsection, a local retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not necessarily limited to, an agreement, (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such local establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

"(s) 'Enterprise engaged in commerce or in the production of goods for commerce' means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

"(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated and if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more;

"(2) any such enterprise, which has one or more establishments engaged in laundering, cleaning, or repairing clothing or fabrics if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

"(3) any such enterprise which is engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier;

"(4) any establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;

"(5) any such enterprise which is engaged in the business of construction or

reconstruction, or both, if the annual gross volume from the business of such enterprise is not less than \$350,000;

"(6) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000, exclusive of excise taxes at the retail level which are separately stated:

Provided, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce, or a part of an enterprise engaged in commerce or in the production of goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner."

INVESTIGATIONS OF EFFECTS ON EMPLOYMENT OF FOREIGN COMPETITION

SEC. 3. Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in fact resulted, or is in fact likely to result, from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress: *Provided*, That he may also include in such report information on the increased employment resulting from additional exports in any industry under this Act as he may determine to be pertinent to such report."

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting after the words "production of goods for commerce" wherever they appear, the following: "or employed in any enterprise engaged in commerce or in the production of goods for commerce".

MINIMUM WAGES

SEC. 5. (a) (1) Section 6(a) of such Act is amended by inserting after the word "who" in the portion thereof preceding paragraph (1), the words "in any workweek".

(2) Paragraph (1) of section 6(a) of such Act is amended to read as follows:

"(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section."

(3) The first sentence of paragraph (3) of section 6(a) of such Act is amended to read as follows:

"(3) if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time."

(b) Subsection (b) of section 6 of such Act is amended to read as follows:

"(b) Every employer shall pay to each of his employees who in any workweek (1) is employed in an enterprise engaged in commerce or in the production of goods for

commerce, as defined in section 3(s) (1), (2), (3), or (5) or by an establishment described in section 3(s) (4) or (6), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at rates—

"(1) not less than \$1 an hour during the first year from the effective date of such amendments; not less than \$1.05 an hour during the second year from such date; not less than \$1.15 an hour during the third year from such date; and not less than the rate effective under paragraph (1) of subsection (a) thereafter;

"(2) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement)."

(c) Subsection (c) of section 6 of such Act is amended to read as follows:

"(c) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5: *Provided*, That (1) the following rates shall apply to any such employee to whom the rate or rates prescribed by subsection (a) would otherwise apply:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, increased by 15 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1961 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Beginning two years after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 10 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

"(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1961 and any such application with respect to any rate or rates pro-

vided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

"(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

"(2) In the case of any such employee to whom subsection (b) would otherwise apply, the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1961.

"(3) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee."

MAXIMUM HOURS

SEC. 6. (a) Subsection (a) of section 7 of such Act is amended by designating such subsection as subsection (a)(1), by inserting after the word "who" the words "in any workweek", and by striking out the period at the end thereof and inserting a semicolon and the word "and" in lieu thereof and adding the following new paragraph (2):

"(2) No employer shall employ any of his employees who in any workweek (1) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1), (2), or (5), or by an establishment described in section 3(s) (4), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this subsection, or (ii) is brought within the purview of this subsection by the amendments made to section 13 of this Act by the Fair Labor Standards Amendments of 1961—

"(A) for a workweek longer than forty-four hours during the second year from the effective date of the Fair Labor Standards Amendments of 1961,

"(B) for a workweek longer than forty-two hours during the third year from such date,

"(C) for a workweek longer than forty hours after the expiration of the third year from such date, unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."

(b) Subsection (b) of section 7 of such Act is amended by striking out "in excess of forty hours in the workweek" in paragraph (2) and inserting in lieu thereof the following: "in excess of the maximum workweek applicable to such employee under subsection (a)".

(c) Subsection (c) of section 7 of such Act is amended by inserting after the subsection designation "(c)" the paragraph designation "(1)", by inserting after the semicolon the paragraph designation "(2)", and by inserting before the period a comma and the following: "except that in any such place of employment in which both clause (2) of this subsection and clause (3) of subsection (b) apply to employees, the number of exempt workweeks shall not exceed ten in any calendar year under each such clause."

(d) Paragraph (5) of subsection (d) of section 7 of such Act is amended by striking out "forty in a workweek" and inserting in lieu thereof the following: "in excess of the maximum workweek applicable to such employee under subsection (a)".

(e) Paragraph (7) of subsection (d) of section 7 of such Act is amended by striking out "forty hours" and inserting in lieu thereof the following: "the maximum workweek applicable to such employee under subsection (a)".

(f) Subsection (e) of section 7 of such Act is amended (1) by striking out "forty hours" and inserting in lieu thereof "the maximum workweek applicable to such employee under subsection (a)", (2) by striking out "section 6(a)" and inserting in lieu thereof "subsection (a) or (b) of section 6 (whichever may be applicable)", and (3) by striking out "forty in any" and inserting in lieu thereof "such maximum".

(g) Subsection (f) of section 7 of such Act is amended by striking out "forty hours" both times it appears therein and inserting in lieu thereof the following: "the maximum workweek applicable to such employee under such subsection".

(h) Section 7 of such Act is amended by adding at the end thereof the following new subsection:

"(h) No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable

workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period (not less than one month) represents commissions on goods or services."

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 7. Subsection (a) of section 8 of such Act is amended by inserting after the word "industries" where it appears in the first sentence the words "or enterprises"; and by inserting after the words "production of goods for commerce" where they appear in the second sentence the following: "or in any enterprise engaged in commerce or in the production of goods for commerce".

CHILD LABOR PROVISIONS

SEC. 8. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "or in any enterprise engaged in commerce or in the production of goods for commerce."

EXEMPTIONS

SEC. 9. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

"(a) The provisions of sections 6 and 7 shall not apply with respect to—

"(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

"(2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, if such establishment—

"(i) is not in an enterprise described in section 3(s), or

"(ii) is in such an enterprise and is a hotel, motel, restaurant, motion picture theater, or an amusement or recreational establishment that operates on a seasonal basis, or

"(iii) is in such an enterprise and is a hospital, or an institution which is primarily engaged in the care of the sick, the aged, the mentally ill or defective, residing on the premises of such institution, or a school for physically or mentally handicapped or gifted children, or

"(iv) is in such an enterprise and has an annual dollar volume of sales (exclusive of excise taxes at the retail level which are separately stated) which is less than \$250,000.

A 'retail or service establishment' shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

"(3) any employee employed by any establishment (except an establishment in an enterprise described in section 3(s) (2)) engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment's annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of

such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, commercial, or communications business: *Provided further*, That neither the exemption in this paragraph nor in paragraph (2) shall apply to any employee of a hotel, motel, or restaurant who is engaged in laundering, cleaning, or repairing clothing or fabrics where such services are not performed exclusively for such hotel, motel, or restaurant: *Provided further*, That this exemption shall not apply to any employee of any such establishment which has an annual dollar volume of sales of such services of \$250,000 or more and which is engaged in substantial competition in the same metropolitan area with an establishment less than 50 per centum of whose annual dollar volume of sales of such services is made within the State in which it is located; or

"(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or

"(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or

"(6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

"(7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or

"(8) any employee employed in connection with the publication of any weekly, semi-weekly, or daily newspapers with a circulation of less than four thousand the major part of which circulation is within the county where printed and published or counties contiguous thereto; or

"(9) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or

"(10) any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or

"(11) any switchboard operator employed by an independently owned public telephone company which has not more than seven hundred and fifty stations; or

"(12) any employee of an employer engaged in the business of operating taxicabs; or

"(13) any employee or proprietor in a retail or service establishment which qualifies

as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

"(14) any employee employed as a seaman on a vessel other than an American vessel; or

"(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve.

"(b) The provisions of section 7 shall not apply with respect to—

"(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

"(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

"(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

"(4) any employee employed in the canning, processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or

"(5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

"(6) any employee employed as a seaman; or

"(7) any employee of a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, not included in other exemptions contained in this section; or

"(8) any employee of a gasoline service station; or

"(9) any employee employed as an announcer, news editor, or chief engineer by a radio or television station having its major studio in a city or town which has a population of not more than fifty thousand, according to the latest available decennial census figures as compiled by the Bureau of the Census, if such city or town is not part of a standard metropolitan statistical area (as defined and designated by the Bureau of the Budget) having a total population in excess of fifty thousand; or

"(10) any employee of an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale distribution of petroleum products if (A) the annual gross volume of sales of such enterprise is not more than \$1,000,000 exclusive of excise taxes, and (B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and (C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale; or

"(11) any employee of a retail or service establishment primarily engaged in the business of selling automobiles, trucks, or farm implements; or

"(12) any employee employed as a driver or driver's helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Secretary shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum workweek applicable to them under section 7(a)."

EMPLOYMENT OF STUDENTS

SEC. 10. Clause (1) of section 14 of such Act is amended by striking out "and" after "apprentices," and by inserting after "messages," the following: "and of full-time students outside of their school hours in any retail or service establishment: *Provided*, That such employment is not of the type ordinarily given to a full-time employee."

PENALTIES AND INJUNCTION PROCEEDINGS

SEC. 11. (a) Section 16(b) of such Act is amended by adding at the end thereof a new sentence as follows: "The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection."

(b) Section 17 of such Act is amended to read as follows:

"INJUNCTION PROCEEDINGS

"SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15(a)(2) the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947)."

STUDY OF AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS

SEC. 12. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(c), 13(a)(10) and 7(b)(3), and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

EFFECTIVE DATE

SEC. 13. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided in such amendments and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act.

Mr. MANSFIELD. Madam President, I do not wish to hold the floor. The Senator from Arizona has requested recognition.

Mr. GOLDWATER. Madam President—

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. I think it is rather unusual, Madam President, to have the Senate proceed in this way, even though it is in accordance with the

rule. There are Members of the Senate who believe that this matter should not be discussed at all at this time, in view of the situation which exists in the country, and particularly in view of the fact that our economy now seems to be moving more sideways than forward. During the last campaign we heard many promises about the impact the new administration would have on the economy. However, that impact has not been felt. In fact, nothing new has been suggested except the same old hypodermics which were offered in the 1930's, but did not work.

Those of us who believe that a repetition of them at this time would result in similar failure, believe it proper to discuss this bill.

Inasmuch as the bill is now the order of business, I shall confine my remarks now to rather brief ones, and shall reserve my other remarks until later on.

Madam President, it is very noble to believe that by government fiat it is possible to raise the standard of living by raising the minimum wage—in this instance, by raising it to \$1.25.

First, we asked the proponents, "If it is good to raise the minimum wage to \$1.25, why not raise it to \$1.50?"

The testimony offered before the committee shows clearly that by raising the minimum wage to \$1.25 we shall not be dealing with the standard of living. In terms of dealing with the present standard of living, the minimum wage should be in the nature of \$2.50; in fact, I believe we figured it at \$2.63, if we are to provide every family in the Nation with an income of \$4,800 to \$5,000, which the testimony shows is required in order to sustain a family of four. If that could be done without doing any harm to the economy, and if it could be done without doing any harm to employed persons, there would be no objection. If it could be done without making a further invasion of States' rights, there would be no objection.

But, Madam President, the pending measure not only bears heavily and dangerously upon the economy and upon employment, but in my opinion it also bears even more dangerously upon States' rights and upon further abuses of the Constitution. At the proper time we shall proceed to discuss that phase of the matter.

The following groups will be affected by this measure—and I believe it proper that the Senate give full consideration to this aspect:

Young people just entering the labor force. They will be very susceptible to discharge and to finding it difficult to obtain jobs in the summer or at any other time.

The unskilled workers. They will be very badly affected by this measure.

The nonwhite members of the labor force. The testimony has shown that our Negro friends are the ones who first suffer when there are layoffs in factories, retail establishments, or other parts of the economy.

Those who work in the contracting business or areas or industries.

We have argued that unemployment would result from the enactment of this

measure. I do not wish to bear on that point at this time.

We have argued that increased cost would result from the enactment of this measure. I do not care to bear on that point at the present time.

At this time I wish to call the attention of my friends to one part of the bill which I believe is its most objectionable feature. I may remind my friends that it was the reason why this bill did not become law during the last session; namely, the part of the bill which would broaden the interstate commerce clause.

Madam President, I wish to read, from page 231 of the hearings, a colloquy I had with Mr. Meiklejohn, of the AFL-CIO. It followed an interesting colloquy which the Senator from Illinois [Mr. DIRKSEN] had with the same gentleman:

Senator GOLDWATER. The description of enterprise under subsection (s) on page 3, I think, presents the point in the question that Senator DIRKSEN asked about in the case of the hypothetical laundry, that it purchased soap, blueing, and everything from a local distributor and did no work outside the city limits, let us say, at any rate no work outside the State limits.

Under (s) this enterprise would be engaged in commerce because it says: "in the activities of which one or more employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person."

Now, the local soap distributor had to buy that soap from out of the State. That one act there would put this enterprise in interstate commerce. So I do not think that your answer was exactly correct when you said that it would be interpreted by rules of the NLRB, it would be interpreted by this definition of enterprise, which in my very limited knowledge of law, goes much past the intention of any Supreme Court ruling that I have seen or the interpretation of the interstate commerce clause.

I get back to the question I asked Mr. Goldberg yesterday—and this seems very ridiculous, I have to admit—but under this definition of enterprise a bootblack would be in interstate commerce, would he not?

Mr. MEIKLEJOHN. I suppose on a very literal reading of it, if he has purchased any of his materials from outside the State, he could, to that extent, be considered to be engaged in interstate commerce. That, however, is not the question which is raised in this bill.

Madam President, for a moment I shall stop reading the testimony, in order to point out that there has been no refutation of the statement that such a person would be covered by this bill. In fact, I do not believe the bill has to be read in a "very literal" way, as Mr. Meiklejohn said, in order to arrive at the conclusion I have just now stated; I believe that such a conclusion could be reached at any time, by anyone in the country, on the basis of the testimony taken in regard to the fine print which I read at that time.

I continue to read from Mr. Meiklejohn's statement:

As far as the laundry case that you are referring to, Senator, I would not want to try to express an opinion on that situation without having a specific case in front of me. I think this would not be either helpful to you or to the record.

Senator GOLDWATER. I think for hypothetical purposes, it would be. We have a break-

off point of a million dollars on laundries. Let us say that we have a laundry doing \$999,000. Under the application of the term "enterprise," in my opinion, he would be—

Mr. MEIKLEJOHN. He would not be included. He must meet both of these elements.

Senator GOLDWATER. I realize that, I think, again, the Court would find that it would apply this term "enterprise" very, very broadly, even if you go ahead and limit it. What we are afraid of here is the fact that the Government can, by the language contained in this act, cover every businessman in this country regardless of his size, regardless of its effect on commerce. A laundry has no effect on commerce, really, one that does business within a State or within a city.

I do not think the Constitution intended that business that was purely local in nature should come under the commerce clause. Even the author of the bill, Justice Black, said that this was so, that a business of a purely local nature was not intended to be covered.

It is not so much the money involved in this thing as it is the principle of more Federal control over businesses that cannot afford Federal control, small business. We have the same fears of this language that we had of the language in last year's bill. I do not see why you have to insist on this definition. Why can we not use the definitions that have been used in the other labor laws?

Mr. MEIKLEJOHN. Are you referring to the activities "affecting commerce" concept?

Senator GOLDWATER. Yes.

Mr. MEIKLEJOHN. We used that last year and we had the same argument.

Senator GOLDWATER. What is the difference between the two definitions?

Mr. MEIKLEJOHN. The Supreme Court has said in decisions under the two statutes that the language of the Labor Act goes further than the language of the Fair Labor Standards Act, and that the "affecting commerce" concept reaches to the fullest extent of the commerce power.

The Supreme Court has also held that in the Fair Labor Standards Act, Congress did not exercise its full power under the commerce clause. In other words, the present concept in the law in the Fair Labor Standards Act does not go as far as the affecting commerce concept in the Labor Act.

In support of the position that we take on this, I would like to refer the members of the committee to a number of Supreme Court decisions. I think it might be helpful to the committee if these cases were referred to at this particular point.

Mr. President, I ask unanimous consent that the statement be printed in the RECORD, without my reading it.

The PRESIDING OFFICER (Mr. PELL in the chair). Is there objection? The Chair hears none.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

One of the cases is *NLRB v. Hudson Company* (1943), 135 Fed. 2d 380, certiorari denied, 320 U.S. 740; *Amalgamated Meat Cutters v. Fairlawn Market* (1947), 35 U.S. 22; *Kirschbaum v. Walling* (1943), 316 U.S. 517, in which there is an exhaustive explanation and examination of the scope of the commerce clause as it is utilized in the Fair Labor Standards Act, and the significance of the coverage concept used in the Fair Labor Standards Act as it now is, and as we believe it is set forth in this bill.

There is also the case of *Roland Electric Company v. Walling*, 325 U.S. 657, which was decided in 1946.

Mr. GOLDWATER. I continue to read from the statement:

On the matter of the laundries, about which there has been some discussion, I would point out at this time that so far as we are able to determine, there are only 90 laundry enterprises in the entire country that do as much as \$1 million of business a year.

Senator DIRKSEN. Suppose there is only one. You see, you are dealing here with a business. It would not make any difference whether it is 1, 90, or 1,000. The Secretary said yesterday that it would include only 90 laundries. Now, that gives me a chance to ask my old friend this question.

You appeared before the House committee and suggested the cutoff be \$500,000.

Mr. BIEMILLER. The same thing here.

Senator DIRKSEN. When are you coming back suggesting that it be \$250,000 and then progressively cut off the dog's tail and include all?

Mr. BIEMILLER. The answer to that is obviously one that nobody can make. Nobody can tell you whether we will be doing that 2 years from now, 10 years from now, or never. But, we do think that we are faced with this practical problem. I am sure, Senator, that if we came in asking for universal coverage, you and many other Members of the Senate would all say, "No, wait a minute, we do not want you going after every small business there is in the United States, we think this is a mistake."

So we have tried to reach what to our mind is a reasonable compromise. In the charts that we have submitted, we point out to you that out of several hundred thousand employers, the \$500,000 cutoff in retail trade, exclusive of eating and drinking places, would only touch 40,000 employers. Those employers, it so happens, employ the great majority of the employees in the retail trade.

I might point out, again getting away from the transcript, that while this act is supposedly going to cover 4,300,000 persons, it will actually affect around 1½ million persons. So let us keep this matter in proper perspective. When we talk about the retail trade, for example, there will be some 500,000 persons affected, instead of the 2 million that it is felt will be affected, if we take the total number to be placed under coverage.

Continuing with the statement Mr. Biemiller was making—and this is the point I wanted to make here—he said:

We are trying to stick to the original purpose of the Wage and Hour Act to bring its benefits to the workers in the retail trade, the largest number that we think we can persuade the Congress to cover at this time.

That is a very interesting statement. To begin with, the finding and declaration of policy of the Fair Labor Standards Act, passed in 1938, is very simply stated. I read from Section 2(a):

The Congress hereby finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with

the orderly and fair marketing of goods in commerce.

One of the declarations of policy, referring back to all of those I have just read from the bill, states:

It is hereby declared to be the policy of this act, through the exercise by Congress of its power to regulate commerce among the several States, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power.

At no place in the original act is there any statement that the original purpose was to bring benefits to workers in the retail trade. When the bill was passed in 1938, Congress did not regard the retailing and services enterprises as being industries engaged in commerce or production of goods for commerce. For 22 years most of these enterprises had been excluded from coverage, and the few that were covered had been specifically exempted.

I wanted to get this statement into the RECORD at the outset, so we would not have the belief that the original purpose of the act, as Mr. Biemiller stated, was to bring benefits to workers in the retail trade. Those workers, as well as workers in the services, had been specifically exempted from coverage of the act for 22 years.

I want to point out that Mr. Biemiller said, in the same paragraph, that they want to get the largest number that they think they can persuade the Congress to cover at this time, because it is perfectly plain to those of us who have listened to these statements in committee for the last 8 or 9 years that the total effort is going to be to place everybody in the United States under the Federal minimum wage.

I proceed with Mr. Biemiller's statement:

While we do not wish to belabor a dead horse, we repeat that Congress gave us sound guidance when the Congress agreed that at least in the field of labor disputes \$500,000 annual sales was a reasonable cutoff point between the cases reserved for the States and the cases over which you take Federal jurisdiction. So we are just trying to follow the line that you gave us in 1959, the Labor-Management Disclosure and Reporting Act.

Senator DIRKSEN. A laundry business who does \$500,000 worth of business a year is out; he would not be covered?

Mr. BIEMILLER. Under the administration bill?

Senator DIRKSEN. That is right.

Mr. BIEMILLER. We are asking that it be covered.

Senator DIRKSEN. Wait a minute; \$500,000, he is out. Across the street is a laundry doing a million dollars, he is in. All right, two people in the same business who are in competition with each other, and to one, by legislative fiat, you have given a competitive advantage. How long do you think it will be before the little laundry with \$500,000 or the big laundryman will be in and say, "Look, you cannot treat me so arbitrarily. I insist and we insist in the trade, and others insist now you drop the ante, you get down to \$250,000 and give us a fair shake because by legislative enactment, you are intruding an unfair competitive element in this whole business."

Is that right or wrong?

Mr. BIEMILLER. From one point of view, I can accept that argument. But all I am

pointing out is that the same thing could be said in terms of the NLRB activities.

Senator DIRKSEN. In your statement you say it ought to be reduced to \$250,000.

Mr. BIEMILLER. For laundries.

Senator DIRKSEN. That is the reason for my question. When are you coming back now to reduce the ante?

This is very interesting:

Mr. BIEMILLER. When we think we have the evidence that makes it feasible and when we think it is a feasible legislative achievement.

We have never tried to give any impression, other than that we try to get legislation that we think we can pass and we think we have a feasible proposal at the time, which meets current economic situations.

Mr. President, I wished to inject that small portion of the testimony into the RECORD at this point, at the outset, so that we in the Senate can understand perfectly well what is the long-range intent of the AFL-CIO in asking that the minimum wage be extended and increased at the present time, and in asking further that unusual, uncalled-for, and undue controls be given to the Federal Government to be exercised over various businesses in the States.

I think the Members of this body should know perfectly well what we are discussing. Senators should know perfectly well that whether the minimum wage is \$1.15 or \$1.25 does not make much difference, for it will be \$1.50, \$2.50, or \$5 as we go through the years, and it will be asked that we extend coverage to every worker in the United States, although this was not the original intent of the act.

Specifically, in the original act retailers and servicers were left out. The original act recognized that local situations varied from State to State and locality to locality, and that certain decisions had to be made in businesses of a purely intrastate nature, which should be made by the States and by the localities.

I think this is such an urgent question that every Member of this body should study very carefully the text of the testimony and should listen to the speeches which will be made on this subject, both pro and con.

Let us not fool ourselves from the outset by thinking that we are engaged in a great humanitarian act. We are not. We are engaging, in my opinion, in a further rape of the Constitution and of States' rights.

I sincerely hope Senators understand what they are doing when, in a period of economic adjustment, they act in a way which will put some people out of work, in a way which may have inflationary results, in a way which can add to the problems involved in competition with foreign economies.

Mr. President, I merely wished to say these few words at this time in order to try to establish the stage, shall we say, as the bill comes before the Senate. I have nothing more to say at this time. I have offered ten amendments which we shall discuss when the proper time comes.

Mr. LAUSCHE, Mr. McNAMARA, and Mr. HOLLAND addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

RED CHINA AND THE UNITED NATIONS

Mr. LAUSCHE. Mr. President, there has been considerable discussion in the newspapers about what will be the attitude of our country concerning the admittance of Red China into the United Nations. This morning the Senator from Montana [Mr. MANSFIELD] pointed out clearly that the President, in his press conference yesterday, stated our attitude on this subject has not changed.

Last November, in response to a letter received by me from a citizen of Ohio, suggesting the admittance of Red China to the United Nations, I wrote a letter. In my opinion the statements which I made at that time are thoroughly pertinent to the subject as it stands today and perhaps should be pointed out to Senators.

I stated:

I am vigorously opposed to the admission of Red China into the United Nations and/or its recognition by the U.S. Government. My opposition is based upon the conviction that Red China does not possess the attributes which would qualify it either for membership in the United Nations or for recognition by our Government.

When the Charter of the United Nations was written, it declared the following principles:

We, the people of the United Nations, determined—

1. To save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind;

2. To reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small;

3. To establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained;

4. To promote social progress and better standard of life in larger freedom.

And for these ends—

5. To practice tolerance and live together in peace with one another as good neighbors;

6. To unite our strength to maintain international peace and security;

7. To insure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest; and

8. To employ international machinery for the promotion of the economic and social advancement of all peoples.

Mr. President, these eight principles are the underlying philosophy of the Charter of the United Nations. To me it seems that before a country should be admitted to the worldwide organization it ought to, in some manner, demonstrate it has a morality which conforms to the declaration of principles contained in the charter.

In my letter I said further:

The conduct of Red China in the light of the United Nations Charter is of a character demonstrating its ineligibility to become a genuine and properly purposed member for the following reasons:

1. In 1950, it took up arms against the forces of the United Nations itself in Korea and as a result was found guilty of aggression by an overwhelming vote of the United Nations General Assembly.

2. After the conclusion of the Korean armistice, the Chinese Communists continuously violated it by bringing jet aircraft and other weapons into Korea.

3. It has refused to honor its commitment in the armistice to give an accounting of the boys from the United Nations command still missing at the end of the hostilities. To this day a final settlement in Korea is being blocked by Peiping's refusal to agree to reunification of Korea under the auspices of the United Nations.

4. Burma was the first Asian country to recognize Red China. Its reward was uninterrupted guerrilla warfare promoted by Red China and loss of three Burmese villages on the border between the two nations.

5. In the Taiwan Strait, Peiping has been using force intermittently since 1949 in its efforts to seize Taiwan and the offshore islands. Twice, in 1954 and 1955, and again in 1958, it raised its acts of violence to such a pitch as to bring the specter of war to the Far East. It is still continuing sporadically shelling of Quemoy and Matsu.

6. In 1950, the Chinese Communists invaded Tibet in their first effort to subdue the Tibetan people. When the Tibetans rose up in 1959, Peiping waged a savage campaign of suppression against them. This was followed in 1959 by Chinese Communists armed incursions along the Tibetan-Indian border. The Tibetan people have been ruthlessly suppressed. Thousands have been killed, other thousands have fled despite unbelievable hardships to escape Peiping efforts at virtual annihilation. The highly respected international Commission of Jesuits has recently, after an exhaustive investigation, condemned Chinese Communists' suppression of human rights in Tibet.

7. In Southeast Asia, the Chinese Communists have given military assistance to the Communists in North Vietnam in violation of the 1954 Geneva accords. In Laos, they have supported the Communist rebellion which in 1958 threatened the peace of the region.

I am now digressing from my letter. In early March the Ambassador to Russia visited Khrushchev in Siberia, seeking a cease-fire and the definite establishment of a neutral Laos. Since March the firing has been intensified. The Communists have increased the aid that they have sent to the Lao rebels. No response has been sent to the British request for the cease fire, and the Lao Communists have been further entrenching themselves in that region.

I now resume the reading of the letter:

8. Peiping has made it plain that it would not accept a seat in the United Nations unless the world community recognized its claim to Taiwan, and the Republic of China (under whatever name) was excluded from the organization.

9. Along with these many acts against international law and world peace, the Peiping government has shown a callous and flagrant disregard of human rights contrary to the United Nations' "Universal Declaration of Human Rights." It has destroyed the rights and freedom of the individual. Red China demands "mass discipline and thought control." Family life has been attacked, the liberty-loving brainwashed, narcotics used to weaken opposition, and genocide practiced by murder, atrocities, etc., against those Chinese brave enough to oppose its philosophy.

Thus by its obvious immoral and unjust dealings both with nations and individuals, Red China has violated all of the principles of the United Nations Charter. It does not fit, either by philosophy or action, for mem-

bership into the United Nations organization.

OUR GOVERNMENT SHOULD NOT GIVE DIPLOMATIC RECOGNITION TO RED CHINA REGIME

It is the past experience of the United States with the Chinese Communist regime that has convinced me that diplomatic recognition of that regime would be contrary to the best interests of the United States. Our experience gives us no basis for belief that recognition would abate Peiping's intense hostility to the United States; or insure its adherence to international obligations undertaken by the government it claims to succeed, or even to the obligations it has undertaken itself; or modify its purpose to pursue its objectives by force and by other means inconsistent with generally accepted standards of international conduct.

Our country has not kept a tightly closed door toward Red China. We have frequently tested the Chinese Communist attitude, notably in the ambassadorial talks. To date, 99 of these talks have been held. Throughout, the Communists have refused to agree upon a resolution of the basic issue between us: renunciation of force in the Taiwan Strait. Instead they have demanded that the United States pull out its defensive forces from the Taiwan area and leave the ally of the United States, the Republic of China, exposed to Communist attack.

Red China's position is that it alone is entitled, on the basis of its totalitarian philosophy, to reunite by force the presently divided regimes of Korea, Vietnam, and China.

Under these conditions, were we to make and offer some one-sided concession to Peiping, what would we gain?

Our allies and friends in Asia and Africa would not understand our purpose and would instead conclude that we were weakening in our resolution to support them in their struggle against the Communist threat. The Communists, too, would interpret such a move as a weakening on our part, "forced" on us by the pressure of public opinion, and as demonstrating the efficacy of their strategy. Little doubt their response would be to stand fast on their uncompromising position in the expectation that the pressure which they think us subject to would in time compel us to bend fully to their will.

Based on the facts and reasons which I have set forth the United States should not give diplomatic recognition to Red China.

With your views about Khrushchev and Castro, Communist China and Russia, I am in total disagreement. These Communist governments and individuals are our enemies—not by our action but by their choice. They are intent upon destroying us; to give them aid and comfort is wrong.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service, and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

PRIVILEGE OF FLOOR

Mr. McNAMARA. Mr. President, I ask unanimous consent that, notwithstanding the limitation in the rules, floor privileges be extended to such members

of the staff of the Committee on Labor and Public Welfare as may be needed during consideration of H.R. 3935, the bill amending the Fair Labor Standards Act.

And I ask further consent that Mr. Joseph Goldberg, Department of Labor expert on wage and hour legislation, be permitted on the Senate floor for the purpose of assisting Members of the Senate during the debate on this bill.

The PRESIDING OFFICER (Mr. PELL in the chair). Is there objection? The Chair hears none, and it is so ordered.

Mr. McNAMARA. Mr. President, we are about to begin debate on proposed amendments to the Fair Labor Standards Act—legislation that has cultivated the well-being and progress of the American people for almost a quarter of a century.

Through this vital program we have sought to provide a minimum living standard and decent working hours for those whose skills and talents alone do not provide them the power to achieve such protection by their own efforts.

The bill now before the Senate seeks simply to match the protections of the act with the demands of the 1960's, and extend its coverage to additional workers. I ask that a summary of the committee bill—which we offer as a substitute for the House-passed measure—be printed in the RECORD at this point.

Mr. JAVITS. Mr. President, I send to the desk an amendment to the pending measure for printing, under the provisions of the rule.

The PRESIDING OFFICER. The amendment will be printed.

Mr. McNAMARA obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. McNAMARA. I yield.

Mr. MANSFIELD. I wonder if the Senator would be willing to yield for the purpose of suggesting the absence of a quorum.

Mr. McNAMARA. While I certainly wish to cooperate with the leadership, I do not believe that it is necessary to have a quorum call at this point. The subject has been fully discussed over many years. Nevertheless, I thank the Senator and appreciate his courtesy.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MINIMUM WAGE BILL (H.R. 3935) AS REPORTED BY SENATE LABOR COMMITTEE

1. For presently covered employees the minimum wage is increased to \$1.15 an hour for the first 2 years after the effective date and \$1.25 an hour beginning 28 months after the effective date (23,900,000).

2. For newly covered employees the minimum wage will be:

- First year, \$1.
- Second year, \$1.05.
- Third year, \$1.15.
- Fourth year, \$1.25.

3. Overtime compensation for the newly covered will be as follows:

- First year, no limitation.
- Second year, 44 hours.
- Third year, 42 hours.
- Fourth year, 40 hours.

4. Retail trade (2,450,000): The bill covers retail enterprises which have a million dollars or more in annual sales (exclusive of excise taxes at the retail level) and which purchase or receive goods for resale that

move or have moved across State lines which amount in total annual dollar volume of \$250,000 or more.

Gasoline service stations (86,000): Also covered are gasoline service stations which have \$250,000 or more in annual sales (exclusive of excise taxes at the retail level).

From this coverage in the retail trade the bill excludes the following:

- (a) Hotels.
- (b) Motels.
- (c) Restaurants, including lunch counters, caterers and similar retail food services.
- (d) Motion picture theaters.
- (e) Hospitals.
- (f) Nursing homes.
- (g) Schools for handicapped or gifted children.
- (h) Amusement or recreational establishments operating on a seasonal basis.

(i) Any small store which has less than \$250,000 in annual sales even if it is in an enterprise that has more than \$1 million in annual sales.

In addition, the bill makes the following special provisions for particular problems in the retail and service trades:

(a) Gasoline service stations which are covered for minimum wage if they have \$250,000 (exclusive of excise taxes at the retail level) or more in annual sales, are exempt from the overtime requirements.

(b) Auto dealers and farm implement retail dealers are exempt from the overtime requirements.

(c) Assistant managers of retail stores will be exempt even if they perform up to 40 percent nonexecutive and nonadministrative work.

(d) Commission employees will be exempt from overtime if more than half their pay is from commissions and if they earn at least time and one-half the minimum rate.

(e) Student workers may be employed in retail trades at subminimum rates under certificates granted by the Secretary in occupations not ordinarily given to full-time employees.

5. Laundries (140,000): Laundry enterprises are covered for minimum wage and overtime if they have a million dollars or more in annual sales (exclusive of excise taxes at the retail level). Further, the existing exemption for such laundries is limited so that it will not apply to any laundry which does more than 25 percent commercial work or any laundry which has \$250,000 in annual sales and is in competition in the same metropolitan area with a laundry which does more than half of its work across State lines. Finally, laundry workers in hotels and restaurants are exempt only if they work in a laundry of their own establishment.

6. Local transit companies (110,000): Covered for minimum wage but not for overtime.

7. Establishment which already have some covered employees under the act (100,000) are covered for all their employees if they are in an enterprise which has a million dollars or more in annual sales.

8. Construction (1 million): Construction enterprises which have at least \$350,000 in annual business are also covered for minimum wage and overtime.

9. Seamen (100,000): Seamen of American flag vessels are covered for minimum wage but not for overtime.

10. Telephone operators (30,000): The exemption for telephone operators is limited to those employed by an independently owned public telephone company which has not more than 750 telephones.

11. Fish processing (33,000): Seafood processing employees are covered for minimum wage but not for overtime (seafood canners are treated in this way under the present law).

12. Processing and canning of agricultural commodities: The combined 28-week overtime exemption for such activities is reduced

to 20 weeks—10 unlimited and 10 limited to 12 hours a day and 56 hours a week.

13. Puerto Rico: The minimum wage in Puerto Rico is increased by the same percentage as the mainland minimum, subject to review by industry committees in hardship cases.

14. Broadcasters: Announcers, news editors, and chief engineers of broadcasting companies located in cities of 50,000 or less population are exempt from overtime.

15. Bulk petroleum dealers: Independently owned and controlled local bulk petroleum distributors are exempt from overtime if their annual sales are less than \$1 million (exclusive of excise taxes).

16. Trip rate: Trip rate drivers and drivers' helpers making local deliveries are exempt from overtime if the Secretary of Labor finds that the plan under which they are paid is consistent with the principle of the 40-hour workweek.

17. Other provisions:

(a) Board and lodging may be included as "wages" on a basis of a fair value calculation made by the Secretary. Also, such prerequisites may be excluded from "wages" to the extent that they are excluded under a collective bargaining agreement.

(b) The Secretary is authorized to study the employment effects of the import and the export trade in industries covered by the act and to report such studies to the President and to the Congress.

(c) The Secretary is required to study the complicated system of exemptions in the act for the handling and processing of agricultural products and to report the results and recommendations to the next session of this Congress.

Total newly covered employees: 4,100,000.

Mr. McNAMARA. Mr. President, protection for workers is not all we seek in this bill.

We hope to restore some measure of purchasing power which has been lost in recent years.

And in doing so, we hope to contribute to the full economic recovery of the Nation which all of us seek.

We seek also to overcome some of the economic injustices which result when one employer pays decent wages and his competitor does not.

We believe, in addition, that passage of this bill will help in the solution of the social problems which are the offspring of subminimum wages—poverty, slums, inadequate schools and medical facilities, broken homes, delinquency, and crime in other forms.

Perhaps one of the best summations of the arguments for this bill was offered by President Kennedy, when, as Senator last year, he led the fight for a similar measure. He said:

Conscience and good business sense join in demanding the enactment of this measure.

—The consciences of freemen have always been aroused by exploitation.

It was an aroused generation of the thirties that enacted the Fair Labor Standards Act, to destroy the most prominent instruments of exploitation then.

Yet despite the progress we have enjoyed since then, we have not realized our ultimate goals.

Anyone familiar with the pitifully low wages paid to workers in laundries and in retail stores will know that we are far from that goal.

The fact that this bill will provide a wage increase for about 750,000 Ameri-

cans, even at the starting figure of \$1 an hour, proves that substandard pay rates are not merely the tales of a to-be-forgotten past.

This measure is not the handbill of a political medicine show, a "share the wealth" nostrum, as it is described by some of its opponents.

If we are successful, more than 3 years from now all of the workers subject to the act will be paid at least \$50 a week for 40 hours of work.

Such awards are not the stuff of which the American dreams are made; they will not fill any two-car garages.

What the bill will help to do is guarantee a minimum standard of diet, clothing, medical care, and shelter for a large segment of our people.

Even the sternest of consciences should not recoil from this result as "easy living."

The report which the Committee on Labor and Public Welfare has submitted with the bill contains evidence demonstrating why good business sense demands the enactment of the pending bill.

I would cite only a few facts from that evidence.

Mass purchasing power is still, as always, the key to the Nation's prosperity.

Our economy will expand only if its products are consumed at a growing rate.

In 1955, when the present \$1 minimum wage was enacted, average hourly earnings in manufacturing were \$1.88 an hour.

By December 1960, they had increased to \$2.32.

If we were to relate the statutory minimum wage to that increase we would have to enact legislation this week providing for \$1.44, if we hoped to preserve the same dollars and cents difference.

It is clear, therefore, that the dollar minimum sought in this bill does not mirror the economic developments of recent years.

Nevertheless, its passage will result in the addition of approximately \$3 billion in purchasing power over the next 4 years.

Furthermore, this purchasing power will be in the hands of many who now depend on Government subsidy for survival and some margin of decency.

Our standards of justice and our humanitarian impulses do not permit us to sit idly by while the families of our less fortunate workers suffer.

Through our tax dollars we seek to ease their suffering.

But in doing so we are giving an even greater subsidy to employers who fail to pay their workers a decent wage.

It is the enlightened businessman who pays the most in salaries.

In addition, his personal income is taxed, so that the families of the lowest income workers can be given the necessities of life through Federal and State assistance.

And finally he must pay taxes on the property he owns to support local welfare programs.

If there is anything called good business sense, it must include the idea that one businessman does not subsidize another with whom he competes.

In any discussion of whether or not this bill makes good business sense, the

following questions must be answered:

First. Will it create unemployment?

Second. Will it stimulate, in any way, a new inflationary spurt?

Third. Will it affect the ability of any American firms to compete, either with their domestic challengers or those from abroad?

The long history of the Fair Labor Standards Act reveals that, at each stage of the law's enactment and expansion, charges were made that it would cause unemployment, raise prices, and drive firms out of business.

The same history reveals that each of these charges was groundless.

I shall not repeat material which is offered in detail in the committee report on the bill.

I refer all interested Senators to this material for the answers to these questions and ask unanimous consent that it be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McNAMARA. Mr. President, during the course of the debate on the bill we shall consider several amendments.

I shall anticipate three of them, because I think their inclusion in the proposed legislation would be most unfortunate.

It is clear that the bill before us has two major purposes: First, the extension of coverage to approximately 4,100,000 workers; and second, an increase in the minimum wage to \$1.25 an hour.

We will be asked to accept language which will destroy one of the purposes of the bill, namely, the extension of coverage to additional workers.

I think it is important for us to remember in this debate just whom we are talking about when we seek to extend coverage.

The overwhelming majority of the workers who would be newly covered are in the retail and service trades.

They work for employers who, under terms of the bill, have a gross sales volume of at least \$1 million a year.

There are 49 U.S. firms that belong to the so-called "billion-dollar club," and 6 of them are in the retail trades. They are truly economic giants, whose names are known to every household in the country.

To demonstrate this fact, I ask unanimous consent that a listing of the largest trade firms be printed at this point in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. McNAMARA. Mr. President, it is inconceivable that Congress would deny a guarantee of at least a dollar an hour in the bill's first year to employees of these billion-dollar firms and their million-dollar competitors.

I again emphasize the million-dollar figure, so that it will be clearly understood that we are not covering even the average retailer.

In fact, the bill will cover only 65,000 of the 1.8 million retail enterprises in the Nation, less than 3.6 percent.

Yet the happy fact remains that in covering this relative handful of con-

cerns we will be giving protection to more than 34 percent of the workers in the field.

The second amendment which may be presented to the Senate would exempt laundry enterprises from the provisions of the bill. The Biblical command "by the sweat of thy brow" is an all too real injunction for the people who staff our laundry and cleaning plants.

Tropical heat and humidity and the mountainous monotony of a day's dirty clothes constitute just 1 day in the lives of those who we will be told should be exempt from this bill.

On top of those conditions is piled the substandard wage rate which can be inferred from the fact that more than 57,000 of the 140,000 laundry workers would be given an immediate pay boost because of the \$1 an hour standard for newly covered employees.

If such observations are not persuasive, I hope it will be remembered that again we are seeking only to cover million-dollar laundries or others whose business puts them into direct competition with laundries already covered.

The third amendment I wish to discuss would exempt the retail enterprise which does not operate at least two stores in at least two States.

Later in the debate some Senators will offer a more comprehensive analysis of the constitutional dangers in such an amendment. I shall take time only to point out the economic injustice of such an approach.

In my own State of Michigan many major retailing concerns operate wholly within the State. One of them is among the Nation's largest department store firms and has gross annual sales in the hundreds of millions of dollars.

We are served also by many retail chains in Michigan who must compete with this retail colossus.

Even were the constitutional arguments on the side of those seeking this amendment, we would still have no feasible explanation for the managers of stores in the small interstate chains.

How would we tell them that the employees of one of the largest department stores in the Nation will be exempt from coverage, while their own employees will fall within the provisions of the act?

Nor would we have an answer for those employed by the department store giant who will be without protection, while their colleagues down the street, who work for the small chain store, will be protected.

This strange and inequitable situation would be duplicated in every State in the Nation if such an amendment were adopted.

Mr. President, I ask unanimous consent that two more documents be printed at the conclusion of my remarks, one listing large wholly intrastate enterprises that would be exempt from coverage, the other listing interstate operations which would be covered.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. McNAMARA. Mr. President, when I introduced the administration's minimum wage bill early in this session, I stated that it was not the answer to all

of the problems created by substandard wages. The bill which we have approved in committee may be similarly described. It is a moderate bill. But both measures represent significant progress.

As one who believes that Congress will ultimately extend protection to every worker in the country, I am proud to offer the committee bill as a major step in that direction. It is almost a duplicate of the bill which the Senate passed a short 7 months ago.

It is almost a duplicate of the measure proposed this year by President Kennedy and his administration, and it carries the full approval of the President and his advisers.

In proposing an expansion of the Fair Labor Standards Act this year, the President said that the enactment of his proposal would "improve the incomes, level of living, morale, and efficiency of many of our lowest paid workers." The majority of the Labor and Public Welfare Committee has agreed with the President.

The passage of the bill will prove, not only to the country, but also to the world, that the conscience of America is still as demanding of justice as it always has been.

EXHIBIT 1

COMMITTEE REPORT MATERIAL ON ECONOMIC EFFECTS OF THE MINIMUM WAGE

(5) EFFECTS ON EMPLOYMENT, PRICES, AND FOREIGN COMPETITION

The committee has given exhaustive consideration to the effects of the proposed changes in the minimum wage on employment, prices, and foreign competition and has concluded that the expressed fears by opponents of such legislation are not borne out by the experience under the Fair Labor Standards Act, or by the experience with minimum wages under State laws. Exhaustive studies indicate that any adverse effects which the minimum wage has had were at most of a very limited nature and were far outweighed by the benefits of the minimum wage law.

(a) Effects on employment

A special section in the record of the hearings held this year by the Senate Subcommittee on Labor, on the amendments to the act, is devoted to this question. (See app. B, beginning on p. 695 of the hearings record.) This material and others show the following:

(i) The first studies of the economic effects of the Fair Labor Standards Act were summarized by the Bureau of Labor Statistics in 1942. The following conclusion was drawn from these studies:

"In none of these four industries (seamless hosiery, cotton, textiles, work clothing, and dress shirts) is there evidence that the general level of employment was affected materially by the introduction of the 32.5-cent standard. Notably in the case of seamless hosiery, there is evidence of some transfer of employment from relatively low-wage to relatively high-wage establishments."

(ii) When the minimum wage was increased from 40 to 75 cents an hour, effective in January 1950, the Department of Labor made a study of the economic effects of the changes in five low-wage industries. The Department concluded that in three of the industries there were no employment declines attributable to the higher minimum, and that the decline of 4 and 2 percent in the other two industries might have been related to other factors.

(iii) The Department of Labor made more extensive studies of the economic effects of the increase in the minimum wage from 75 cents to \$1 an hour. In one phase of these studies, the Department attempted to follow up on all situations in which the minimum wage was alleged to have adverse effects on employment, including the closing down of plants. These case studies disclosed layoffs of only 1,800 workers who might have been discharged because of the minimum wage.

The Department also analyzed trends in employment and unemployment over the period of adjustment to the \$1, and reported as follows:

"Total nonagricultural employment was generally on the uptrend between the time of enactment of the \$1 minimum wage and the first part of 1957, reflecting the general economic expansion in the economy during this period.

"Unemployment, nationwide, did not increase over the period of immediate adjustment to the \$1 minimum wage. An estimated 3 million persons were unemployed in April 1955, 2.2 million in August 1955, 2.6 million in April 1956, and 2.2 million in August 1956. Thus, the effects of the minimum wage on unemployment were not sufficiently large to be discernible in overall estimates of unemployment."

Special surveys were made of employment before and after the effective date of the \$1 minimum wage in: (a) 15 selected low-wage industries in which the minimum had a particularly heavy impact; (b) selected segments of 12 of these low-wage industries where the impact of the \$1 minimum was the heaviest (the Secretary noted that these 12 industry segments employed about 400,000 workers, of whom 240,000, or 60 percent, were paid less than \$1 an hour before the minimum went into effect); (c) 6 low-wage communities in which large numbers of workers had to be given wage increases as a result of the increase in the minimum wage to \$1 an hour.

These studies have been widely commented upon and there appears to be some confusion as to the significance of the employment changes which were found to have occurred between the period prior to the enactment of the \$1 minimum and thereafter.

These facts are clear: That in the selected 12-industry segments which were most heavily affected, the data gathered by the Department's Bureau of Labor Statistics showed a decline in employment of 4 percent during the first survey period following the enactment of the \$1 minimum and a decline of 9 percent in the second survey period as compared with the employment prior to the enactment of the minimum-wage increase.

No one has suggested that these declines in employment were attributable entirely to the \$1 minimum wage. Thus Secretary Mitchell in his report to the Congress (submitted in accordance with the requirements of sec. 4(d) of the Fair Labor Standards Act) pointed out that "there were other economic influences on a number of the industries in question which were in part responsible for changes in levels of employment." (P. 8 of pt. II of Secretary's report for 1959.)

The following observations on the Department's studies appear desirable in order to evaluate the employment declines shown in the studies and to assess properly the effects of the \$1 minimum on these declines:

The employment in the 15 low-wage industries taken as a whole remained virtually unchanged during the impact period of the dollar minimum. In August 1955, before the \$1 minimum went into effect, employment in these 15 low-wage industries was 2,022,000 and a year later, in August 1956,

the employment was virtually the same—2,018,000.

The investigation of the low-wage segment of the 12 low-wage industries showed a variety of patterns. In some cases, employment after the \$1 minimum was higher than before; in other cases there were declines. On an overall basis there was a drop of about 14,600, or 4 percent in the first survey period following the increase in the minimum wage. The bulk of these declines, however, was accounted for by seasonal variations or by developments unrelated to the minimum wage such as competition from substitute products, inadequate demand, changed governmental agricultural policies, weather conditions, crop failures, and certain long-term technological innovations.

For example, hosiery employment normally declines seasonally between the months of February and April, the period chosen for the survey. Wood container employment declined between 1955 and 1956, partly because of adverse weather conditions which affected the fruit and vegetable industry and partly because of the historical decline in this industry due to the popularization of other types of packaging. Marketing allotments restricting the quantity of raw sugar that individual mills could process affected in part the employment during the 1956 grinding season of this industry. On the other hand, tobacco stemming and redrying showed an increase in the employment. In only a few isolated cases were the negative trends in employment attributed by the Department of Labor studies to the minimum wage.

The data also show that employment in the second survey period in the same low-wage segments of the 12 low-wage industries declined by a somewhat larger number—36,671, or 9 percent—as compared with the predollar period. Some of these declines in employment may be attributed to the onset of the 1958 recession. The other factors enumerated above were also operative.

For example, tobacco stemming and redrying activities were curtailed by a 20-percent cutback in acreage allotments under the soil bank program. Southern sawmills suffered from a long-term decline due to competition from other materials, lesser use of lumber in residential buildings. The work-shirt industry also showed a long-term decline completely unrelated to the \$1 minimum which was primarily due to the growing popularity of sport and T-shirts as work apparel and the conversion of some existing work-shirt plants to the production of the substitute apparel. Although these plants which converted did not go out of business, their statistical reclassification contributed to the decline in employment shown for the work-shirt industry. Florida citrus fruit processing continued to show gains of employment between the 1956 and 1957 seasons and exceeded the employment in 1955 before the \$1 minimum. A mild drop in cigar employment by comparison with the predollar period in the Southeast was caused by the continual introduction of equipment for the use of homogenized binder, a development that was initiated a number of years earlier.

In relatively few cases, for the group as a whole, were negative effects attributed by the Department of Labor studies to the \$1 minimum wage.

In the first few months following the enactment of the \$1 minimum, the field staff of the Wage and Hour and Public Contracts Divisions and local officials of State employment security offices were asked to watch for and report on situations in which the minimum wage was alleged to have adverse effects on employment, including the

closing down of plants. As the report prepared by the divisions states: "Visits were made to all firms which could be identified, and plant owners or management representatives were interviewed to determine whether employees had been discharged, and if so, the apparent reasons for discharges."

"The most significant result of this study was the small number of reports received. While this is not a measure of impact, it helps to put into proper perspective isolated reports that might otherwise lead to unwarranted generalizations. Only about 500 newspaper accounts, letters, and oral statements alleging adverse effects were noted, and in only about 150 cases did there seem to be some reason for believing that the minimum wage had adversely affected employment. (About 100 of the reports were not followed up because the names of the firms involved were not available to the divisions.) These 150 plants employed about 12,000 workers prior to the layoffs and indications were that about 1,800 workers may have been discharged as a result of the minimum wage. There is no way of determining what proportion of all business closings or employment reductions which resulted from the minimum wage increase are reflected in these reports" ("Studies of the Economic Effects of the \$1 Minimum Wage," interim report, 1957, p. 6).

The studies of the low-wage communities demonstrate that the \$1 minimum did not prevent employment growth between February 1956 (before the \$1 minimum) and June 1959. Employment in the six communities studied increased substantially, fully 20 percent in the industries which were subject to the act and 14 percent in the industries which were not covered by the act. This significant increase in employment is particularly noteworthy when compared to the national increase of employment during the same period, which was only 2 percent.

A careful analysis of the detailed data collected by the Labor Department's Bureau of Labor Statistics, which was the basis for the Secretary's reports, indicates that while there might have been some minor adverse effects of the \$1 minimum wage on employment in some selected low-wage industry segments, the overall effect in these industries and in the communities of maximum impact was not adverse and indeed, may have contributed to the general stability and improvement in employment levels.

(iv) Included in appendix B of the hearings record is a very significant and pertinent study of employment data, from Government sources, from 13 States in which a \$1 minimum wage has been applied to retail trade. The data shows that in not even one State is there any evidence that the requirement of a minimum wage has led to a decline in retail employment ("Hearings Before the Subcommittee on Labor of the Committee on Labor and Public Welfare on Amendments to the Fair Labor Standards Act, 1961," pp. 728-739).

(6) EFFECTS ON PRICES

The following excerpts from the Labor Department studies demonstrate that changes in the minimum wage had no discernible effect on prices even in the low wage industries where the impact of an increase in the minimum was most significant. The excerpts are from "Secretary Mitchell's 4(d) Report for 1960":

"Effects on prices"

"Although the wholesale price index began rising in mid-1955 and continued to rise for about 3 years thereafter, it appears that the minimum wage increase did not contribute significantly to the price rise.

"Changes in wholesale prices of the products of low wage industries were less, on the average, than the change in the wholesale price index between January 1956 and January 1957. While the index for all commodities increased 4.5 percent during the

year, the average increase for the products of low wage industries included in the index was 2.6 percent. During the longer run period, January 1956 to January 1960, there was virtually no increase in wholesale prices of products of the low wage industries while the increase in the index for all commodities was 6.6 percent. * * *

"These estimates are based on price indexes for the 145 primary commodities of 15 low wage industries for which price data were obtained by the Bureau of Labor Statistics. The 15 industries are those surveyed for the Department's program of minimum wage studies in 1959.

"Of more importance than the relatively small average increase in the prices of products of the low wage industries is the fact that, during the period of a general upward price movement, the prices of many of the products of these industries did not change or decrease. The magnitude of price changes between January 1956 and January 1957 for these 145 commodities is shown in the following distribution:

	Number of commodities	Percent of total
Price increase of—		
5 percent or more.....	26	18
Over 0 and under 5 percent....	62	43
No change.....	24	17
Price decrease of—		
Over 0 and under 5 percent....	21	14
5 percent or more.....	12	8
Total.....	145	100

"There are two reasons for expecting that a minimum wage increase will not result in a general pattern of increases in the prices of products of low wage industries. First, the Department's studies show that many employees of low wage industries are prodded by a minimum wage change to increase productivity, and thus to adjust to higher costs per hour of labor without increasing costs per unit of output. Second, much of the impact of a minimum wage change is in industries in which low wage firms compete with firms which pay all employees substantially more than the minimum rate, so that prices tend not to rise by a significant amount even though wage costs of the low wage firms are increased. The fact that prices in the low wage industries showed negligible change over the period 1956-60 as a whole, while the all-commodity index rose 6.6 percent, suggests that adjustment to a minimum wage increase may be accomplished through methods other than price increases. For example, increases in productivity—which in some cases may be accompanied by declines in employment—may have been used by individual plants to adjust to the minimum wage ("Secretary of Labor's 4(d) Report of 1960," pp. 20-22)."

(C) EFFECTS ON FOREIGN COMPETITION

"An analysis of the available data does not support the view that a moderate increase in the minimum wage will have a substantial adverse effect on the ability of American producers to compete with foreign producers in either the domestic or foreign markets.

"Most U.S. firms which compete with foreign producers would not be directly affected by an increase in the minimum wage, since they pay wages far in excess of the minimum rate. This is indicated by a detailed analysis of the types of commodities which are imported into the United States, and of those which are exported from the United States to other countries. This analysis disclosed that more than four-fifths of imported and exported commodities are produced in the United States by industries which would not be significantly affected by a modern increase in the minimum wage.

"The position of low wage firms competitive with foreign producers may tend to be adversely affected if a minimum wage change were to result in higher prices. However, as is noted above, the Department of Labor's studies of the effect of minimum wage increases indicate that they did not result in any general pattern of increases in the prices of products of low wage industries.

"In summary, it may be expected that a moderate increase in the minimum wage will not have extensive adverse effects on the ability of U.S. firms to compete with foreign producers. This conclusion is consistent with trends in the value of imports and exports during the period of adjustment to the increase in the minimum wage from 75 cents to \$1 an hour, effective in March 1956. During that period, both imports and exports increased. The value of merchandise imports increased from \$11.4 billion in calendar year 1955 to \$13 billion in 1957. The value of merchandise exports in 1955 was \$14.3 billion, and in 1957, \$19.5 billion.

"Similar trends are reflected in the data on imports of fabrics, apparel, and related manufactures, a substantial proportion of which are produced by low-wage firms. The value of imports of these commodities was \$397 million in 1955, and \$472 million in 1957. The value of exports of these commodities was \$477 million in 1955 and \$497 million in 1957.

"In the first half of 1960, the annual rate of imports of fabrics, apparel, and related manufactures was \$758 million, and of exports \$480 million. During the second half of 1960, imports of these commodities declined slightly, to an annual rate of \$718 million. To what extent the trade position of these commodities would become less favorable as a result of a minimum wage increase cannot be determined. However, it may be noted that a substantial part of the commodities imported are produced in Japan, Hong Kong, and other low-wage areas by workers who are paid only 10 to 25 cents an hour. American producers could not compete on even terms with producers of these low wage areas even if the minimum wage were less than \$1 an hour."

In his message to the Congress proposing a program to restore momentum to the American economy, dated February 2, 1961, President Kennedy stated that an increase in the minimum wage and an expansion of coverage "can actually increase productivity and hold down unit costs, with no adverse effects on our competition in world markets and our balance of payments. More than four-fifths of those commodities affected by either export or import trends are produced by industries which would not be significantly affected by a moderate increase in the minimum wage. The proposed new coverage is basically in retail trade and services, which are not affected by shifts in international trade.

"Moreover, experience with previous minimum wage increases indicates little effect on prices. In the 4 years following the 1956 increase in the minimum wage, the index of all wholesale prices increased 6.6 percent, whereas the prices charged for commodities produced in low-wage industries showed negligible change."

The committee is in agreement with this statement; nevertheless, since the question has been raised regarding the effects of foreign competition on industries covered by the act, the committee has added a specific provision to the bill in order to provide the information necessary for evaluating this matter. The bill contains a new provision, proposed section 4(e) of the act, which directs the Secretary of Labor to make investigations whenever he has reason to believe that in any industry under the act the competition of foreign producers has resulted or is likely to result in increased un-

employment. If he finds that increased unemployment has in fact resulted or is likely to result from such competition, he will make a report of his findings to the President and to the Congress.

EXHIBIT 2

The 1958 ranking of the largest trade firms

	1958 sales	Classification ¹
	Millions	
1. Great Atlantic & Pacific Tea Co.	\$5,094.7	F
2. Sears, Roebuck & Co.	3,721.3	M
3. Safeway Stores, Inc.	2,225.4	F
4. Kroger Co.	1,776.2	F
5. J. C. Penney Co.	1,410.0	D
6. Montgomery Ward & Co.	1,092.3	M
7. American Stores Co.	874.8	F
8. F. W. Woolworth Co.	864.6	C
9. National Tea Co.	794.2	F
10. Anderson, Clayton & Co.	791.9	W
11. Food Fair Stores, Inc.	734.0	F
12. Winn-Dixie Stores, Inc.	666.4	F
13. Federated Department Stores, Inc. ³	653.2	D
14. Allied Stores Corp.	643.8	D
15. McKesson & Robbins, Inc.	614.0	W
16. May Department Stores Co. ⁴	541.0	D
17. First National Stores, Inc.	531.5	F
18. Grand Union Co. ⁵	503.7	F
19. R. H. Macy & Co., Inc.	456.4	D
20. Jewel Tea Co., Inc.	443.8	F
21. Colonial Stores, Inc.	437.1	F
22. W. T. Grant Co.	432.2	C
23. Graybar Electric Co.	430.0	W
24. S. S. Kresge Co.	384.4	C
25. Gimbel Bros., Inc.	384.1	D
26. ACF-Wrigley Stores, Inc.	363.1	F
27. Consolidated Foods Corp.	358.6	W
28. Standard Oil Co. (Kentucky)	294.8	W
29. Loblaw, Inc.	284.9	F
30. Arden Farms Co.	273.9	W
31. City Stores Co.	269.0	D
32. Associated Dry Goods Corp.	260.9	D
33. Walgreen Co.	259.9	C
34. Western Auto Supply Co.	223.4	W
35. J. J. Newberry Co.	221.9	C
36. Marshall Field & Co.	218.0	D
37. G. C. Murphy Co.	208.9	C
38. Pittston Co.	207.7	W
39. Red Owl Stores, Inc.	199.5	F
40. Stop & Shop, Inc.	194.0	F
41. Pacific Gamble Robinson Co.	182.3	W
42. Lerner Stores Corp.	179.3	D
43. Butler Bros. ⁶	165.6	W
44. Super Valu Stores, Inc.	165.2	W
45. Thriftmart, Inc.	163.0	F
46. Penn Fruit Co., Inc.	161.6	F
47. H. C. Bohack Co., Inc.	161.4	F
48. Broadway-Hale Stores, Inc.	159.5	D
49. S. H. Kress & Co.	159.4	C
50. Mercantile Stores Co., Inc.	157.9	D
51. Southern States Cooperative, Inc.	152.1	W
52. Universal Leaf Tobacco Co., Inc.	143.7	W
53. Lucky Stores, Inc.	141.5	F
54. Bullock's, Inc.	138.8	D
55. Melville Shoe Corp.	136.4	O
56. Spiegel, Inc.	134.8	M
57. H. L. Green Co., Inc. ⁷	133.4	C
58. J. Weingarten, Inc.	125.1	F
59. Fleming Co., Inc.	124.9	W
60. Gamble-Skogmo, Inc.	119.8	O
61. Automatic Canteen Co. of America.	117.5	C
62. Mayfair Markets	117.0	F
63. Giant Food, Inc.	116.6	F
64. Goldblatt Bros., Inc.	114.7	D
65. McCrory Stores Corp. ⁸	109.8	C
66. Thorofare Markets, Inc.	109.2	F
67. Edison Bros. Stores, Inc.	109.1	C
68. Shoe Corp. of America	107.1	D
69. E. J. Korvette, Inc.	105.8	O
70. Hecht Co. ⁴	104.2	D
71. Fisher Bros. Co.	102.2	F
72. Purity Stores, Ltd.	100.4	F
73. Carson Pirie Scott & Co.	99.3	D
74. Emporium Capwell Co.	98.7	D
75. Aldens, Inc.	98.4	M
76. American News Co.	98.0	C
77. Thrifty Drug Stores Co., Inc.	97.8	C
78. Von's Grocery Co. ⁹	94.5	F
79. Market Basket	92.5	F
80. Carpenter Paper Co.	91.5	W
81. Shopping Bag Food Stores ¹⁰	90.5	F
82. Seaman Bros., Inc.	85.3	W
83. S. Klein Department Stores, Inc.	84.7	D
84. Bond Stores, Inc.	83.8	D
85. Rieh's, Inc.	83.1	D
86. Big Bear Stores Co.	79.7	F
87. Cook Coffee Co.	79.7	F
88. Borman Food Stores, Inc.	78.7	F
89. Daiteh Crystal Dairies, Inc.	75.3	F
90. J. S. Dillon & Sons Stores Co., Inc.	75.0	F
91. Peoples Drug Stores, Inc.	74.9	O

Footnotes at end of table.

EXHIBIT 2

The 1958 ranking of the largest trade firms—Continued

	1958 sales	Classification ¹
	Millions	
92. Van Waters & Rogers, Inc.	\$73.7	W
93. Barker Bros. Corp.	73.2	C
94. Lane Bryant, Inc.	72.8	D
95. Food Giant Markets, Inc.	71.0	F
96. Alpha Beta Food Markets, Inc.	70.2	F
97. Davidson Bros., Inc.	69.3	D
98. Neisner Bros., Inc.	67.1	C
99. American Hospital Supply Corp.	66.6	W
100. Wieboldt Stores, Inc.	65.8	D
101. Interstate Department Stores, Inc.	65.7	D
102. Brunswick Drug Co.	65.3	W
103. ABC Vending Corp.	64.6	C
104. Joseph Horne Co.	64.0	D
105. Marsh Foodliners, Inc.	63.9	F
106. Woodward & Lothrop	62.4	D
107. Flour Mills of America, Inc.	61.8	W
108. Edward Hines Lumber Co.	61.4	W
109. Commercial Metals Co.	61.1	W
110. Two Guys from Harrison, Inc.	60.6	C
111. Scruggs-Vandervoort-Barney, Inc.	60.5	D
112. McLellan Stores Co. ⁸	60.5	C
113. A. S. Beck Shoe Corp.	60.4	C
114. Marshall-Wells Co.	59.4	W
115. Food Mart, Inc.	59.2	F
116. Stix, Baer & Fuller Co.	58.5	D
117. S. M. Flickinger Co., Inc.	58.1	W
118. Genuine Parts Co.	56.5	W
119. Frank G. Shattuck Co.	56.5	C
120. Star Market Co.	55.3	F
121. J. W. Mays, Inc.	53.5	D
122. Meier & Frank Co., Inc.	51.8	D
123. L. S. Ayres & Co.	51.1	D
124. Horn & Hardart Co.	50.3	C
125. United Whelan Corp.	49.6	O
126. Rike-Kumber Co. ¹	49.6	D
127. American Factors, Ltd.	49.1	W
128. Cunningham Drug Stores, Inc.	48.8	C
129. Godfrey Co.	48.2	W
130. Hiale Bros. Co.	48.1	D
131. Dilbert's Quality Supermarkets, Inc.	48.0	F
132. Higbee Co.	47.9	D
133. Century Food Markets Co.	47.7	F
134. Austin, Nichols & Co., Inc.	47.3	W
135. Ed. Schuster & Co., Inc.	47.3	D
136. Eagle Food Centers, Inc.	47.1	F
137. Katz Drug Co.	46.9	C
138. Yonker Bros., Inc.	46.2	D
139. National Bellas Hess, Inc.	45.7	M
140. White Stores, Inc. ¹⁰	45.6	W
141. Ducommun Metals & Supply Co.	44.5	W
142. Earle M. Jorgensen Co.	43.6	W
143. Franklin Stores Corp.	43.4	D
144. Williams & Co., Inc.	43.3	W
145. Mangel Stores Corp.	42.7	D
146. Williams-McWilliams Industries, Inc.	42.6	F
147. Grayson-Robinson Stores, Inc.	42.2	D
148. A. J. Bayless Markets, Inc.	41.9	F
149. Zale Jewelry Co., Inc.	41.6	C
150. Best & Co., Inc.	41.1	D
151. Sun Ray Drug Co. ¹¹	41.0	C
152. Hot Shoppes, Inc.	40.8	C
153. Western Department Stores	40.7	D
154. Whitaker Paper Co.	40.0	W
155. Julius Garfinckel & Co.	39.3	D
156. Miller-Wohl Co., Inc.	38.9	D
157. Neiman-Marcus Co.	38.9	D
158. Southwestern Drug Corp.	38.8	W
159. Miller & Rhoads, Inc.	36.7	D
160. Blekford's, Inc.	36.6	C
161. Moore-Handley Hardware Co., Inc.	36.5	W
162. Gray Drug Stores, Inc.	36.0	C
163. Diana Stores Corp.	35.6	D
164. Associated Food Stores, Inc.	35.4	W
165. Thalheimer Bros., Inc.	35.4	D
166. Victory Markets ¹²	35.2	F
167. A. S. Aloe Co. ¹³	34.7	W
168. Stouffer Corp.	34.1	C
169. Hoving Corp.	34.0	D
170. Houston Oil Field Material Co., Inc.	33.5	W
171. Spur Oil Co.	33.1	O
172. Bluefield Supply Co.	32.9	W
173. Ketchum & Co., Inc.	32.8	W
174. Richman Bros. Co.	32.5	D
175. Kobacker Stores, Inc.	32.2	D
176. Trunz, Inc.	32.0	F
177. Horn & Hardart Baking Co.	31.9	C
178. General Merchandise Co.	31.9	M
179. Rose's 5, 10 & 25 Cents Stores, Inc.	31.7	O
180. Hajoca Corp.	31.2	W
181. Sprouse-Reitz Co., Inc.	30.2	O
182. D. H. Holmes Co., Ltd.	29.8	D
183. A. M. Castle & Co.	29.4	W
184. Mandel Bros., Inc.	29.4	D
185. Bearings, Inc.	29.0	W
186. Webb's City, Inc.	28.9	O

Footnotes at end of table.

EXHIBIT 2

The 1958 ranking of the largest trade firms—Continued

	1958 sales	Classification ¹
	Millions	
187. New York Merchandise Co., Inc.	\$28.8	W
188. Early & Daniel Co.	27.8	W
189. Arnold Constable Corp.	27.8	D
190. R. C. Williams Co.	27.7	W
191. Book-of-the-Month Club, Inc.	27.4	C
192. White Sewing Machine Corp.	27.3	W
193. Billups Western Petroleum Co.	26.1	C
194. Fed-Mart Corp.	26.0	O
195. Howard Stores Corp.	25.7	D
196. Butler's Shoe Corp. ¹⁴	25.7	C
197. D. Kaltman & Co., Inc.	25.6	W
198. Zion's Cooperative Mercantile Institution	25.6	D
199. Reliable Stores Corp.	25.3	C
200. Levine's, Inc.	25.0	D

¹ Classification is as follows: D—department and specialty stores; M—mail order; F—food store chains; C—chains other than food; W—wholesalers and jobbers.

² 13 months.

³ Federated Department Stores acquired Rike-Kumler Co. October 1959.

⁴ May Department Stores Co. merged with Hecht Co. February 1959.

⁵ Grand Union Co. acquired Sunrise Supermarkets (1957 rank, 128) December 1958.

⁶ Butler Bros. was acquired by City Products Corp. February 1960.

⁷ H. L. Green Co. acquired Olen Co. (1957 rank, 198) October 1958.

⁸ McCrory Stores merged with McLellan Stores January 1959 to form McCrory-McLellan Stores.

⁹ Proposed merger of Von's Grocery Co. with Shopping Bag Food Stores is subject to approval of shareholders in March 1960.

¹⁰ Formerly White's Auto Stores.

¹¹ Sun Ray Drug Co. merged with Consolidated Retail Stores January 1959 to form Consolidated Sun Ray, Inc.

¹² Formerly W. H. Dunne Co.

¹³ A. S. Aloe Co. was acquired by Brunswick-Balke-Collender Co. June 1959.

¹⁴ 10 months.

¹⁵ Formerly Butler's, Inc.

Sources: Annual reports of the companies; "Moody's Industrials."

Firms that would be excluded from the coverage of the Fair Labor Standards Act under the 2-State test

Name	State	Sales volume (millions of dollars)
Bayless	Arizona	48
Alpha Beta Food Markets	California	82
Broadway Hale Store	do	180
City of Paris	do	14
Emporium Capwell	do	108
Market Basket, Inc.	do	96
Marston Co.	do	14
Purity Stores	do	100
Shopping Bag Food Stores	do	84
Thrifty Drug Stores	do	115
Von's Grocery Co.	do	86
Walker-Scott	do	11
Webb's City	Florida	29
Rich's	Georgia	92
Lytton's	Illinois	16
Wieboldt Stores	do	67
Ilaag Drug	Indiana	12
Hook Drug	do	14
Holmes Co.	Louisiana	30
Gilechrist Co.	Massachusetts	22
Crowley, Milner & Co.	Michigan	22
Borman Food Products	do	79
J. L. Hudson Co.	do	150
Harzfeld's	Missouri	11
Stix, Baer & Fuller	do	61
H. C. Bohack Co.	New York	171
Hill's Supermarkets	do	31
Mays, Inc.	do	57
Gallaher Drug	Ohio	14
Fisher Co.	do	93
The Higbee Co.	do	52
Meir & Frank	Oregon	57
Horne Co.	Pennsylvania	66
Penn Traffic Co.	do	10
Outlet Co.	Rhode Island	16
Mading Drug	Texas	6
Neiman-Marcus	do	41
Zion Co-op Mercantile Institution	Utah	26
Schuster	Wisconsin	47

EXHIBIT 3

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States

[The firms are listed by State and because they are included in every State in which they operate stores, necessarily the same firm may be listed in several States]

ALABAMA

Company	Category	Number of stores	Other States of operation
Baxter Stores, Inc., Trenton, N.J.	Clothing and furnishings	25	Florida, Georgia, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, and New Jersey.
Kenwin Shops, Inc., New York, N.Y.	do	20	Georgia, North Carolina, and South Carolina.
My Shop, Inc., New York, N.Y.	do	41	Georgia, Illinois, Indiana, Louisiana, Mississippi, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
Smart & Thrifty Dresses, Inc., New York, N.Y.	do	33	Florida, Louisiana, South Carolina, Texas, and Virginia.
Eleanor Shops, Inc., New York, N.Y.	do	40	Georgia, Mississippi, North Carolina, Pennsylvania, South Carolina, and Virginia.
O.P.O. Clothes, New York, N.Y.	do	34	Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Consolidated Retail Stores, Inc., New York, N.Y.	do	29	Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Baker's Shoe Stores, Birmingham, Ala.	Shoes	22	Florida.
Midland Shoe Co., St. Louis, Mo.	do	38	Arkansas, Illinois, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.
Nettleton Shops, Inc.	do	45	Most all States.
Danley Furniture Co., Opp City, Ala.	Furniture	12	Florida.
National Manufacture & Stores Corp., Atlanta, Ga.	do	40	Georgia, Louisiana, North Carolina, South Carolina, Tennessee, and Texas.
Haverty Furniture Co., Atlanta, Ga.	do	28	Arkansas, Florida, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, Texas, and Virginia.
Worinser Hat Stores, Inc., New York, N.Y.	Clothing and furnishings	42	Arkansas, Colorado, South Dakota, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Virginia Dare Stores, Corp., New York, N.Y.	do	46	Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Weiss Bros. Stores, Inc., New York, N.Y.	do	19	Georgia, Indiana, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.
Woodrow Stores, Inc., New York, N.Y.	do	15	Arizona, Florida, Louisiana, North Dakota, and New York.
Pak-A-Sak Service, Inc., Bossier City, La.	Food supply	48	Louisiana.
W. R. Whitford's 5¢-\$1.00 Stores, Madisonville, Ky.	Variety	6	Kentucky.
Ellis Stores, Inc., Lake Providence, La.	do	7	Louisiana.
Mathews Paint Co., Los Angeles, Calif.	Miscellaneous	9	California.
Rogers Toy Shops, Inc., Washington, D.C.	do	18	Washington, D.C., Tennessee, Ohio, Florida, Maryland, Georgia, Pennsylvania, and Virginia.
Forsyth Fabrics, Inc., Atlanta, Ga.	do	9	Georgia, Illinois, Iowa, Kentucky, Louisiana, and Tennessee.
Munford Do-It-Yourself Stores, Inc., Atlanta, Ga.	do	43	Florida, Georgia, North Carolina, South Carolina, Tennessee, and Virginia.
Darwin's Cookeville, Tenn.	Clothing and furnishings	5	Tennessee.
Ileht's, Memphis, Tenn.	do	6	Do.
Sterchi Bros. Stores, Inc., Knoxville, Tenn.	Furniture	44	Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee.
U.S. 5¢-10¢ Stores, Chattanooga, Tenn.	Variety	22	Georgia and Tennessee.
Redford Stores, Inc., Chattanooga, Tenn.	do	26	Do.
Lay & Co., Inc., Cleveland, Tenn.	do	18	North Carolina, Georgia, and Tennessee.
W. L. Bentley's 5¢-\$1 Stores, Springfield, Tenn.	do	10	Kentucky and Tennessee.
Kuhn Bros. Co., Nashville, Tenn.	do	43	Kentucky, Mississippi, and Tennessee.
Acme Quality Paint Co., Detroit, Mich.	Miscellaneous	5	Michigan.
The National Hotel Co., Galveston, Tex.	Drugstore	14	Indiana, Louisiana, Nebraska, South Carolina, Texas, and Virginia.
David Lee Stores, Birmingham, Ala.	Variety	17	Georgia and Tennessee.
Fuller Supermarkets, Inc., Nashville, Tenn.	Food	9	Tennessee.
Christo's, Inc., Panama City, Fla.	Variety	25	Florida and Georgia.
S. E. McConnell Sons Co., Atlanta, Ga.	do	44	Georgia.
Olan Mills, Inc., Chattanooga, Tenn.	Miscellaneous	35	Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.
Hale Drug Co., Nashville, Tenn.	Drugs	14	Arkansas, Georgia, Mississippi, North Carolina, and Tennessee.
Albright & Wood, Inc., Mobile, Ala.	do	20	Florida and Mississippi.
Rosenblum Shoes, Inc., New Orleans, La.	Shoes	16	Louisiana.
R. C. Brown Stores, Jackson, Miss.	Clothing and furnishings	5	Louisiana and Mississippi.
Saxon's Candy Kitchen, Inc., Wellington, Ala.	Candy	12	Georgia.
Royal Auto Supply Co., Birmingham, Ala.	Auto supply	12	Tennessee.
Kenwin Shops, Waycross, Ga.	Clothing and furnishings	18	Georgia, North Carolina, and South Carolina.
Schwobilt Clothes, Columbus, Ga.	do	29	Florida, Georgia, Louisiana, and Mississippi.
Huh Stores, Bainbridge, Ga.	do	15	Georgia.
Auto-Lec Stores, Inc., New Orleans, La.	Auto supply	50	Florida, Louisiana, Mississippi, and Tennessee.
Economy Auto Stores, Inc., Atlanta, Ga.	do	28	Florida, Georgia, and Tennessee.
Royal Auto Supply Co., Birmingham, Ala.	do	12	Tennessee.

ALASKA

Kling Building Supply, Portland, Oreg.	Hardware	4	Oregon.
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ARIZONA

Sumner Stores Corp, New York, N.Y.	Clothing	33	Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, Texas, Tennessee, Virginia, and New York.
Town Stores, New York, N.Y.	do	11	California and New York.
O.P.O. Clothes, New York	Clothing and furnishings	34	Alabama, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Tanne-Ardan, Inc., New York, N.Y.	Clothing	36	California, Colorado, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Texas, Utah, Washington, and New York.
National Shoe Co., Ltd., Los Angeles, Calif.	Shoes	32	California, Nevada, and Oregon.
Roe Bros. Stores, Inc., Beverly Hills, Calif.	do	46	California, Colorado, Idaho, New Mexico, Nevada, Oregon, Texas, Washington, and Wyoming.
Imperial Hardware Co., California	Hardware	15	California.
International Hardware Co., El Paso, Tex.	do		Texas.
Nettleton Shops, Inc.	Shoes	45	All States.
Glven Bros., Inc., El Paso, Tex.	do	20	New Mexico and Texas.
Barker Bros. Corp., Los Angeles, Calif.	Furniture	20	California.
Woodrow Stores, Inc., New York, N.Y.	Clothing and furnishings	15	Alabama, Florida, Louisiana, North Dakota, and New York.
Magikist Service Corp., Chicago, Ill.	Drycleaning	10	California, Florida, Illinois, Indiana, Massachusetts, Michigan, New York, Ohio, Pennsylvania, Texas, and Wisconsin.
Lawson's Jewelers, Inc., Beverly Hills, Calif.	Jewelry	20	California.
Welmar, Inc., New York, N.Y.	Furniture	8	New York, North Carolina, Oklahoma, and Pennsylvania.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

[The firms are listed by State and because they are included in every State in which they operate stores, necessarily the same firm may be listed in several States]

ARIZONA—Continued

Company	Category	Number of stores	Other States of operation
Consumers Mart of America, Inc., Phoenix	Discount stores	5	California and Illinois.
The Fed-Mart Corp., San Diego	do	7	California and Texas.
Skaggs Drug Center, Inc., Salt Lake City, Utah	Drug store	28	Colorado, Idaho, Louisiana, Montana, Nevada, New Mexico, Oklahoma, and Utah.
Circle "K" Drive-In Food Stores, El Paso, Tex.	Food	34	New Mexico and Texas.
Lewis Shoe Stores, Waco, Tex.	Shoe	14	Florida, Illinois, Kentucky, and Texas.
Sweetbriar Shops, Inc., Denver, Colo.	Clothing and furnishings	48	Colorado, Idaho, Montana, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming.
Markson Bros., Inc., Los Angeles, Calif.	do	41	California, Colorado, Illinois, Kansas, Maine, Massachusetts, New York, Oklahoma, and Texas.
House of Nine, Inc., Los Angeles, Calif.	do	34	California, Texas, Colorado, Michigan, Utah, Missouri, Oregon, and Pennsylvania.
Hartfield Stores, Inc., Los Angeles, Calif.	do	45	California, New Jersey, New York, Oregon, Washington, and Hawaii.
Maternity Modes, Phoenix, Ariz.	do	6	New Mexico and Texas.

ARKANSAS

Newport Stores, Springfield, Mo.	Variety	7	Also operates in Missouri.
Friedman's, Charleston, Mo.	do	5	Do.
Horton's 5-10-25¢ Stores, Lamar, Mo.	do	5	Do.
Barnett-Levy Co., Memphis, Tenn.	do	14	Also operates in Tennessee and Mississippi.
Sunflower Stores, Inc., Indianola, Miss.	Food	8	Also operates in Mississippi.
Walton's 5-10¢ Stores, Bentonville, Ark.	Variety	11	Also operates in Missouri.
Remnant House (Fabrics), Ripley, Tenn.	Miscellaneous	14	Also operates in Illinois, Indiana, Kentucky, Missouri, and Tennessee.
Wallace E. Johnson Supply Co., Memphis	do	7	Also operates in Mississippi and Tennessee.
Carpet City, Inc., Tulsa, Okla.	do	6	Also operates in Oklahoma.
Iale Drug Co., Nashville, Tenn.	Drugs	14	Also operates in Alabama, Georgia, Mississippi, North Carolina, and Tennessee.
Crank Drug Co., Springfield	Drugstore	9	Also operates in Missouri.
United Shoe Stores Co., 2901 Linwood Ave., Shreveport, La.	Shoes	44	Also operates in Louisiana, Georgia, Texas, Mississippi, Oklahoma, Tennessee, and others.
Gibson Clothing Stores, El Dorado	Clothing and furnishings	4	Also operates in Louisiana.
Adeline Apparel Shops, Inc., New York, N.Y.	do	49	Also operates in Illinois, Indiana, New York, North Carolina, Ohio, Tennessee, Pennsylvania, Virginia, and New Jersey.
Montaldo's, New York	do	11	Also operates in county, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, and Virginia.
Consolidated Retail Stores, Inc., New York, N.Y.	do	29	Also operates in Alabama, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Midland Shoe Co., St. Louis, Mo.	Shoes	38	Also operates in Alabama, Illinois, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.
Weiss & Newmann Shoe Co., St. Louis, Mo.	do	50	Also operates in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Texas, and Wisconsin.
Haverty Furniture Co., Atlanta, Ga.	Furniture	28	Also operates in Florida, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, Texas, Virginia, and Alabama.
Family Shoe Stores, Tahlequah, Okla.	Shoes	22	Also operates in Oklahoma and Texas.
Nettleton Shops, Inc.	do	45	Also operates in all States.
Wormser Hat Stores, Inc., New York, N.Y.	Clothing and furnishings	42	Also operates in Alabama, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Karbe's, Inc., Pittsburg, Kans.	Food supply	12	Also operates in Kansas and Missouri.
Newton Jewelry Co., Joplin, Mo.	Jewelry	8	Also operates in Missouri, Iowa, and Oklahoma.
Perel & Lowenstein, Memphis, Tenn.	do	7	Also operates in Kentucky and Tennessee.
S & Q Clothiers, Dallas, Tex.	Clothing and furnishings	9	Also operates in Oklahoma and Texas.
Palais Royal, Inc., Houston, Tex.	do	10	Also operates in Louisiana and Texas.
Southern Supply, Inc., Fort Smith	Auto supply	6	Also operates in Oklahoma.

CALIFORNIA

Gramont Co., Inc., New York, N.Y.	Clothing and furnishings	9	Also operates in Illinois, Maryland, Michigan, Missouri, New Jersey, New York, and Pennsylvania.
Town Stores, New York, N.Y.	Clothing	11	Also operates in Arizona and New York.
The Custom Shops, New York, N.Y.	Clothing and furnishings	26	Also operates in District of Columbia, Illinois, Maryland, Michigan, Minnesota, New Jersey, New York, Ohio, and Pennsylvania.
O.P.O. Clothes, New York	do	34	Also operates in Alabama, Arizona, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Tanue-Arden, Inc., New York, N.Y.	Clothing	36	Also operates in Arizona, Colorado, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Texas, Utah, New York, and Washington.
Brooks Bros. Clothing, New York, N.Y.	Clothing and furnishings	7	Also operates in Illinois, Massachusetts, and New York.
Dundee Smart Clothes, Inc., New York, N.Y.	do	15	Also operates in New York, Pennsylvania, Utah, and Washington.
French, Shriner, & Urner, Boston, Mass.	Shoe stores	17	Also operates in Massachusetts, Minnesota, New York, Ohio, and Pennsylvania.
National Shoe Co., Ltd., Los Angeles, Calif.	do	32	Also operates in Arizona, Nevada, and Oregon.
Roe Bros. Stores, Inc., Beverly Hills, Calif.	do	46	Also operates in Arizona, Colorado, Idaho, New Mexico, Nevada, Oregon, Texas, Washington, and Wyoming.
Imperial Hardware Co., California	Hardware	15	Also operates in Arizona.
Zukor's, New York, N.Y.	Clothing and furnishings	16	Also operates in Oregon, New York, and Washington.
McMahan's Furniture Co., Santa Monica, Calif.	Furniture	37	Also operates in Idaho and Nevada.
Barker Bros. Corp., Los Angeles, Calif.	do	20	Also operates in Arizona.
Riviera Sofa Bed Co., Long Beach, Calif.	do	5	Also operates in Nevada.
J. & J. Slater, New York, N.Y.	Shoes	8	Also operates in District of Columbia, Illinois, New Jersey, and New York.
Nettleton Shops, Inc.	do	45	Also operates in all States.
French, Shriner & Urner 443 Albany Street Boston, Mass.	do	17	Also operates in Massachusetts, Minnesota, New York, Ohio, and Pennsylvania.
Mathews Paint Co., Los Angeles, Calif.	Miscellaneous	9	Also operates in Arizona.
Wallpapers, Inc., Oakland, Calif.	do	5	Also operates in Oregon and Washington.
Sherman Clay & Co., San Francisco, Calif.	do	23	Do.
Page Company, Inc., Dallas 1, Tex.	Clothing and furnishings	9	Also operates in Michigan, Ohio, and Texas.
Lyon & Healy, Inc. (musical Merchandise), Chicago, Ill.	Miscellaneous stores	11	Also operates in Illinois, Indiana, Ohio, and New York.
Gensler-Lee Diamonds, San Francisco, Calif.	Jewelry	26	Also operates in Nevada.
Lawson's Jewelers, Inc., Beverly Hills, Calif.	do	20	Also operates in Arizona.
Rogers Jewelry Co., Inc., Modesto, Calif.	do	8	Also operates in Nevada and Oregon.
Dick Tyrrell Jewelers, Inc., Oakland, Calif.	do	11	Also operates in Washington.
Weisfeld's, Inc., Seattle, Wash.	do	32	Also operates in Idaho, Oregon, and Washington.
Fonk's 5¢-1.00 Stores, Moscow, Idaho	Variety	13	Also operates in Idaho and Washington.
W. & J. Sloane, Inc., New York, N.Y.	Furniture	11	Also operates in Connecticut, District of Columbia, New Jersey, and New York.
The Fed-Mart Corp., San Diego, Calif.	Discount Stores	7	Also operates in Arizona and Texas.
Consumers Mart of America, Inc., Phoenix, Ariz.	do	5	Also operates in Arizona and Illinois.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

[The firms are listed by State and because they are included in every State in which they operate stores, necessarily the same firm may be listed in several States]

CALIFORNIA—Continued

Company	Category	Number of stores	Other States of operation
The Matlock Stores, La Canada, Calif.	Variety	6	Also operates in Colorado, Kansas, and Oklahoma.
Nordstrom's, Inc., Seattle, Wash.	Shoestore	18	Also operates in Oregon and Washington.
Goubaud de Paris, Inc., New York, N.Y.	Miscellaneous	28	Also operates in New York, Connecticut, Washington, D.C., Florida, New Jersey, Pennsylvania, and Canada.
Bennett's (Paints), Salt Lake City, Utah	do.	8	Also operates in Idaho and Utah.
Lons Stores, Oakland, Calif.	Drugstore	15	Also operates in Hawaii.
The Owl Drug Co., Los Angeles, Calif.	do.	31	Also operates in Oregon.
Concord Drug Store, Inc., Concord	do.	8	Also operates in Nevada.
Milton F. Kreis Drug Stores, Beverly Hills, Calif.	do.	5	Also operates in Ohio.
Pay Less Stores, Portland, Ore.	do.	18	Also operates in Idaho, Oregon, and Washington.
Joseph Magnin Co., Inc., San Francisco, Calif.	Clothing and furnishings	15	Also operates in Nevada.
Motherhood Maternity Shops, Inc., Los Angeles, Calif.	do.	21	Also operates in Oregon.
Markson Bros., Inc., Los Angeles, Calif.	do.	41	Also operates in Arizona, Colorado, Illinois, Kansas, Maine, Massachusetts, New York, Oklahoma, and Texas.
Lanz of California, Inc., Los Angeles, Calif.	do.	11	Also operates in Nevada.
House of Nine, Inc., Los Angeles, Calif.	do.	34	Also operates in Arizona, Texas, Colorado, Michigan, Utah, Missouri, Oregon, and Pennsylvania.
Hartfield Stores, Inc., Los Angeles, Calif.	do.	45	Also operates in Arizona, New Jersey, New York, Oregon, Washington, and Hawaii.
Morrow's Nut House Corp., Rialto	Candy stores	5	Also operates in Oregon and Utah.
Tire Mart Stores Corp., New York, N.Y.	Auto supply	27	Also operates in New Jersey, New York, Pennsylvania, and Illinois.

COLORADO

Montaldo's, New York	Clothing and furnishings	11	Also operates in Arkansas, Missouri, New Jersey, North Carolina, Oklahoma, and Virginia.
Tanne-Arden, Inc.	Clothing	36	Also operates in Arizona, California, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Texas, Utah, Washington, and New York.
L. Goldman Shoe Co., Denver, Colo.	Shoe	5	Also operates in Nebraska, South Dakota, and Wyoming.
Roe Bros. Stores, Inc., Beverly Hills, Calif.	do.	46	Also operates in Arizona, California, Idaho, New Mexico, Nevada, Oregon, Texas, Washington, and Wyoming.
Rollnick Shoe Co., Denver, Colo.	Shoe	9	Also operates in Idaho, Utah, and Wyoming.
S. A. Foster Lumber Co., Lincoln, Neb.	Hardware	9	Also operates in Nebraska and Wyoming.
Wormser Hat Stores, Inc., New York, N.Y.	Clothing and furnishings	42	Also operates in Alabama, Arkansas, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Nettleton Shops, Inc.	Shoes	45	Also operates in all States.
L. A. Sullivan Stores, Grant	Variety	6	Also operates in Nebraska.
Acme-Harding Glass, Inc., Topeka, Kans.	Miscellaneous stores	16	Also operates in Iowa, Kansas, Missouri, Nebraska.
Caldwell's Inc., Goodland, Kans.	do.	7	Also operates in Kansas, and Nebraska.
Gem, Inc., St. Louis	Discount stores	7	Also operates in Hawaii, Kansas, Missouri, Minnesota, and Pennsylvania.
The Matlock Stores, La Canada, Calif.	Variety	6	Also operates in California, Kansas and Oklahoma.
Skaggs Drug Center, Inc., Salt Lake City, Utah	Drugstores	28	Also operates in Arizona, Idaho, Louisiana, Montana, Nevada, New Mexico, Oklahoma, Texas and Utah.
Brown's Shoe Fit Co., Shenandoah, Iowa	Shoes	40	Also operates in Iowa, Kansas, Missouri, Nebraska, and North Dakota.
Schaffer's, St. Paul, Minn.	Clothing and furnishings	8	Also operates in Iowa, Minnesota, Nebraska and Texas.
Sweethair Shops, Inc., Denver, Colo.	do.	48	Also operates in Arizona, Idaho, Montana, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Utah and Wyoming.
Conrad's, Inc., Denver, Colo.	do.	11	Also operates in Idaho, Montana, Oregon, Utah, Washington and Wyoming.
Markson Bros., Inc., Los Angeles, Calif.	do.	41	Also operates in California, Arizona, Illinois, Kansas, Maine, Massachusetts, New York, Oklahoma and Texas.
House of Nine, Inc., Los Angeles, Calif.	do.	34	Also operates in California, Arizona, Texas, Colorado, Michigan, Utah, Oregon, and Pennsylvania.
Stickney's Inc., Sterling, Colo.	Auto Supply	10	Also operates in Nebraska and Wyoming.

CONNECTICUT

Albreeht's Retail Stores, Inc., New York	Clothing and furnishings	18	New Jersey and New York.
Polly Perry Stores, Inc., New York	do.	20	Pennsylvania.
Puritan Federal Clothing Stores, Inc., New York	do.	46	Illinois, Indiana, Maine, Massachusetts, Michigan, New Hampshire, Ohio, Pennsylvania, and Vermont.
Ripley Clothes, New York	Clothing	41	District of Columbia, Massachusetts, Missouri, New Jersey, New York, Pennsylvania, and Rhode Island.
Roger Kent, Inc., New York	do.	13	Massachusetts, New York, and Pennsylvania.
Best & Co., Inc., New York	Clothing and furnishings	19	District of Columbia, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Virginia.
Morrison Stores Corp., New York	do.	12	Delaware, Indiana, Michigan, and New York.
Cosmo Hosiery Shops, New York	do.	7	New Jersey and New York.
Millinery Stores, New York	do.	27	Washington, D.C., Illinois, Indiana, Minnesota, Ohio, Tennessee, and Texas.
P & Q Shops, Inc., New York	do.	9	Massachusetts, New Hampshire, and Rhode Island.
Jane Lee Stores, Inc., New York	do.	38	Illinois, Indiana, Kansas, and Kentucky.
Lewis Apparel Stores, Inc., New York	do.	35	New York, Kansas, Massachusetts, Michigan, North Carolina, Ohio, and Oklahoma.
Parkfield Shops, Inc., New York	do.	10	Ohio and Pennsylvania.
Druss Stores, New York	do.	6	New Hampshire, New Jersey, and New York.
J. Baker, Inc., Worcester, Mass.	Shoes	14	Massachusetts and Vermont.
London Character Shoes, New York	do.	29	New Jersey and New York.
Morton's Shoe Stores, Inc., Boston, Mass.	do.	15	Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Perry's Shoes, Fort Plain, N.Y.	do.	14	New Jersey and New York.
Shelbro, Inc., Mount Vernon, N.Y.	do.	5	New York, Rhode Island, and Virginia.
Tanen Shoe Co., Lynn, Mass.	do.	6	Massachusetts and New York.
Tredwell Shoe Corp., Boston, Mass.	do.	26	Do.
Carlisle Hardware Co., Springfield, Mass.	Hardware	12	Massachusetts.
County Hardware Corp., Mount Vernon, N.Y.	do.	5	New York.
Diamond National Corp., Biddeford, Maine	do.	26	Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
Kay's-Newport, Inc., Providence, R.I.	Shoes	21	Massachusetts, New York, and Rhode Island.
Unger's Hosiery & Frocks, Inc., New York	Clothing and furnishings	11	Massachusetts.
S. S. Pierce Co., Boston, Mass.	Food supply	9	Do.
Food Marts, Inc., Holyoke, Mass.	do.	6	Do.
Nettleton Shops, Inc.	Shoes	45	All States.
J. Baker, Inc., Worcester, Mass.	do.	14	Massachusetts and Vermont.
Tanen Shoe Co., Lynn, Mass.	do.	6	Massachusetts and New York.
Tredwell Shoe Corp., Boston, Mass.	do.	26	Connecticut, Massachusetts, and New Hampshire.
J. A. Tepper Co., Orange, Mass.	Variety	5	Massachusetts.
M. N. Landau Stores, Inc., New York	do.	20	New York, Indiana, Massachusetts, Michigan, New Hampshire, New Jersey, North Carolina, and Texas.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

[The firms are listed by State and because they are included in every State in which they operate stores, necessarily the same firm may be listed in several States]

CONNECTICUT—Continued

Company	Category	Number of stores	Other States of operation
Castro Convertible Corp., New Hyde Park, N.Y.	Furniture	47	New York, Florida, Maryland, Michigan, New Jersey, Pennsylvania, District of Columbia, and Rhode Island.
M. H. Lamston, Inc., New York	Variety	17	New Jersey and New York.
Allied Shoe Co., Boston, Mass.	Shoes	33	Massachusetts, Maine, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, and Rhode Island.
Morton's Shoe Stores, Inc., Boston, Mass.	do	15	Massachusetts, Delaware, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Laundereenter Corp., Woodside, N.Y.	Drycleaning	13	Massachusetts, New Jersey, and New York.
Johnny-on-the-Spot, Scarsdale, N.Y.	do	15	New York.
Royce Superior Laundry, Inc., Springfield, Mass.	do	15	Massachusetts.
Sparkle Cleansers, Inc., Brookline, Mass.	do	35	Do.
W. & J. Sloane, Inc., New York, N.Y.	Furniture	11	California, District of Columbia, New Jersey, and New York.
Hone Dew Food Stores, Inc., Teaneck, N.J.	Food	9	New York and New Jersey.
Popular Markets, Inc., Springfield, Mass.	do	13	Massachusetts.
Market Basket Stores, Inc., Medfield, Mass.	do	12	Do.
Growers Outlet, Inc., Springfield, Mass.	do	13	Do.
Tower Marts, Inc., New York	Discount stores	12	Washington, D.C., Maryland, Massachusetts, New Jersey, and Pennsylvania.
Arlan's Department Stores, Inc., New Bedford	do	11	Connecticut, Kentucky, Massachusetts, Michigan, New York, and Ohio.
New England Stores, New Britain, Conn.	Variety	7	Massachusetts.
Camera Craft, Inc., New Rochelle	Miscellaneous	8	New York.
Raphan Carpet Corp., Franklin Square	do	15	New Jersey and New York.
Goubaud de Paris, Inc., New York	do	28	New York, California, Washington, D.C., Florida, New Jersey, Pennsylvania, and Canada.
Wadsworth, Howland & Co., Boston	do	9	Massachusetts.
My Maternity Shop, Inc., Buffalo, N.Y.	Clothing and furnishings	45	New York, Ohio, Pennsylvania, West Virginia, and Ontario and Quebec, Canada.
Outlet Millinery Co., Inc., Hartford, Conn.	do	5	Maine and Massachusetts.
Natelson Bros., Inc., Elizabeth, N.J.	do	6	New Jersey and New York.
Stevens Retail Stores, Inc., Jersey City, N.J.	do	14	Do.
Kennedy's, Inc., Boston, Mass.	do	16	Maine, Massachusetts, New Hampshire, and Rhode Island.
Lee Shops, Boston, Mass.	do	8	Massachusetts.
Prudence Clothes, Inc., Boston, Mass.	do	8	Maine, Massachusetts, and New Hampshire.
Stork Time, Inc., Boston, Mass.	do	7	Massachusetts and Rhode Island.
Beverly's, Inc., Shoppers World, Framingham, Mass.	do	5	Massachusetts.
Youth Centre Stores, Inc., Springfield, Mass.	do	9	Do.
Do.	do	9	Connecticut.
Benny's, Inc., Providence, R.I.	Auto supply	21	Massachusetts and Rhode Island.
Strauss Stores Corp., Maspeth, Long Island, N.Y.	do	42	New York.

DELAWARE

Felsway Shoe Corp., New York, N.Y.	Shoes	37	Also operates in District of Columbia, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and South Carolina.
Cranes-Mayos Clothes, Inc., New York, N.Y.	Clothing and furnishings	40	Also operates in Georgia, Illinois, Indiana, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
Morrison Stores Corp., New York, N.Y.	do	12	Also operates in Connecticut, Indiana, Michigan, and New York.
Irving O. Livingston, Inc., New York, N.Y.	do	16	Also operates in Illinois and Indiana.
Morton's Shoe Stores, Inc., Boston, Mass.	Shoes	15	Also operates in Connecticut, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Wilbur-Rogers, Inc., New York, N.Y.	Clothing and furnishings	38	Also operates in District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
Williams Retail Stores, Inc., New York, N.Y.	do	7	Also operates in New Jersey and Pennsylvania.
Polan's 5¢-1.00 Stores, Baltimore, Md.	Variety	13	Also operates in District of Columbia, Florida, Maryland, and Pennsylvania.
M. H. Fishman Co., Inc., New York, N.Y.	do	47	Also operates in Maine, Massachusetts, New Hampshire, New Jersey, Vermont, Virginia, New York, Ohio, and Pennsylvania.
Nettleton Shops, Inc.	Shoes	45	Also operates in most States.
Alfred H. Cohen & Son, Upper Darby, Pa.	do	6	Also operates in New Jersey and Pennsylvania.
J. B. Van Seiver Co., Camden, N.J.	Furniture	7	Do.
Liehman Furniture Co., Inc., Pottsville, Pa.	do	8	Also operates in Pennsylvania.
Morton's Shoe Stores, Inc., 16 Greenbaum St., Boston, Mass.	Shoes	15	Also operates in Massachusetts, Connecticut, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Adams Clothes, Inc., Philadelphia, Pa.	Clothing and furnishings	16	Also operates in Pennsylvania and New Jersey.
Rockover Bros., Inc., Philadelphia, Pa.	do	25	Also operates in New Jersey, New York, Pennsylvania, and Virginia.
B. J. Hoy 5¢ & 10¢ Stores, Inc., New Castle, Del.	Variety	10	Also operates in Pennsylvania.
National 5¢ & 10¢ Stores, Inc., Newark, Del.	do	7	Also operates in Maryland and New Jersey.
Bon Ton Wallpaper Co., Inc., Philadelphia, Pa.	Miscellaneous	7	Also operates in Pennsylvania.
M. Buten & Sons, Philadelphia	do	19	Also operates in New Jersey and Pennsylvania.
Sheo Cut Price Stores, Inc., Philadelphia, Pa.	Drugs	50	Also operates in Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia.
Terry Shops, Newark, New Jersey	Clothing and furnishings	24	Also operates in New Jersey, Maryland, New York, and Virginia.
Penn-Jersey Auto Stores, Inc., Philadelphia, Pa.	Auto supply	27	Also operates in District of Columbia, New Jersey, and Pennsylvania.
Best Auto Supply, Inc., Philadelphia, Pa.	do	6	Also operates in Pennsylvania.

DISTRICT OF COLUMBIA

Morton's New York	Clothing and furnishings	5	Maryland and Virginia.
Best & Co., Inc., New York, N.Y.	do	19	Connecticut, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Virginia.
Hofstadter & Albert Millinery Corp., New York, N.Y.	do	7	Maryland, Ohio, Pennsylvania, and Virginia.
Tall Apparel Shops, New York, N.Y.	Clothing	7	Maryland, Massachusetts, Michigan, Minnesota, New York, and Pennsylvania.
Ripley Clothes, New York, N.Y.	do	41	Connecticut, Massachusetts, Missouri, New Jersey, New York, Pennsylvania, and Rhode Island.
The Custom Shops, New York, N.Y.	Clothing and furnishings	26	California, Illinois, Maryland, Michigan, Minnesota, New Jersey, New York, Ohio, and Pennsylvania.
Millinery Stores, New York, N.Y.	do	27	Connecticut, Illinois, Indiana, Minnesota, Ohio, Tennessee, and Texas.
Cardinal Neckwear, Inc., New York, N.Y.	do	16	Florida, Illinois, Massachusetts, New Jersey, and New York.
Consolidated Retail Stores, Inc., New York, N.Y.	do	29	Alabama, Arkansas, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
David's Specialty Shops, Inc., New York, N.Y.	do	15	New York, Ohio, and Virginia.
Felsner Shoe Stores, Washington, D.C.	Shoe	13	Maryland & Virginia.
Felsway Shoe Corp., New York, N.Y.	Shoes	37	Delaware, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and South Carolina.
I. Miller Salons, New York, N.Y.	do	14	Florida, Illinois, Maryland, New Jersey, New York, and Pennsylvania.
Hechinger Co., Washington, D.C.	Hardware	6	
People's Hardware Stores, Washington, D.C.	do	19	Maryland and Virginia.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

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DISTRICT OF COLUMBIA—Continued

Company	Category	Number of stores	Other States of operation
Wormser Hat Stores, Inc., New York, N.Y.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Wilbur-Rogers, Inc., New York, N.Y.	do	38	Delaware, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
J & J Slater, New York, N.Y.	Shoes	8	California, Illinois, New Jersey, and New York.
Nathan & Sylvia Robin, Inc., Washington, D.C.	Drycleaning	14	Maryland and Virginia.
Elite Laundry & Cleaning Co., Washington, D.C.	do	10	Do.
Blue Ribbon Laundry, Bethesda, Md.	do	28	Do.
Polan's 5¢-1¢ Stores, Baltimore, Md.	Variety	13	Florida, Delaware, Maryland, and Pennsylvania.
Market Tire Co., Rockville, Md.	Miscellaneous stores	8	Maryland and Virginia.
George's Warehouse Supermarkets, Washington, D.C.	Miscellaneous	7	Virginia.
Home, Inc. (paints, glass, and tile), Washington, D.C.	do	10	Virginia and Maryland.
Ritz Camera Centers, Washington, D.C.	do	7	Maryland, Pennsylvania, and New York.
Rogers Toy Shops, Inc., Washington, D.C.	do	18	Tennessee, Ohio, Florida, Alabama, Maryland, Georgia, Pennsylvania, and Virginia.
Stidham Tire Stores, Washington, D.C.	do	7	Maryland and Virginia.
Charles G. Stott Co., Inc., Washington, D.C.	do	6	Do.
W. R. Winslow Co. (paints), Washington, D.C.	do	8	Do.
Robertson's 5¢-10¢ Stores, Inc., Falls Church, Va.	Variety	5	Virginia.
Castro Convertible Corp., New Hyde Park, N.Y.	Furniture	47	Connecticut, Florida, Maryland, Michigan, New Jersey, New York, Pennsylvania, and Rhode Island.
W. & J. Sloane, Inc., New York, N.Y.	do	11	California, Connecticut, New Jersey, and New York.
Tower Marts, Inc., New York, N.Y.	Discount stores	12	Connecticut, Maryland, Massachusetts, New Jersey, and Pennsylvania.
Dalmo Sales Co., Washington, D.C.	do	5	Maryland and Virginia.
S. N. McBride Co., Inc., Washington, D.C.	Variety	6	Maryland.
H. S. King Co., Washington, D.C.	do	5	Maryland and Virginia.
Standard Drug Co., Richmond, Va.	Drugstore	13	Virginia.
Goubaud de Paris, Inc., New York, N.Y.	Miscellaneous	28	California, Connecticut, Florida, New Jersey, New York, Pennsylvania, and Canada.
Brentano's, Inc., New York, N.Y.	do	13	Maryland, New Jersey, Virginia, and New York.
Pete Moore Appliance Center, Bristol, Va.	do	10	Kentucky, Pennsylvania, Tennessee, and Virginia.
Metro Drug Stores, Riverdale, D.C.	Drugstore	10	Virginia and Maryland.
Save-Mor Drugs, Inc., Washington, D.C.	do	10	Virginia.
Dart Drug Corp., Washington, D.C.	do	13	Maryland and Virginia.
Jelleff's, Inc., Washington, D.C.	Clothing and furnishings	6	Do.
Blechman's Kopy Kat, Inc., Washington, D.C.	do	5	Maryland.
Beyda's, Washington, D.C.	do	5	Do.
Webster Clothes, Inc., Baltimore, Md.	do	19	Maryland, Indiana, Kentucky, New Jersey, North Carolina, Ohio, Virginia, and West Virginia.
Casual Corner, Inc., Silver Spring, Md.	do	6	Maryland.
Penn-Jersey Auto Stores, Inc., Philadelphia, Pa.	Auto supply	27	Delaware, New Jersey, and Pennsylvania.
The Ahel Corp., Columbus, Ohio	do	36	Iowa, Indiana, Maryland, Michigan, Ohio, Pennsylvania, Texas, and West Virginia.
Market Tire, Inc., Rockville, Md.	do	8	Maryland and Virginia.

FLORIDA

Good-Val Stores Corp., New York, N.Y.	Clothing and furnishings	26	Georgia, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, South Carolina, and Virginia.
Smart & Thrifty Dresses, Inc., New York, N.Y.	Clothing	33	Alabama, Louisiana, South Carolina, Texas, and Virginia.
O.P.O. Clothes, New York, N.Y.	Clothing and furnishings	34	Alabama, Arizona, California, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Sumner Stores Corp., New York, N.Y.	Clothing	33	Alabama, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, Tennessee, Virginia, and New York.
Bonhill Shirt Shops, Inc., New York, N.Y.	Clothing and furnishings	24	New York and Puerto Rico.
Blackton Fifth Avenue, Ltd., New York, N.Y.	do	10	New York.
Bonwit Teller, New York, N.Y.	do	8	Illinois, Massachusetts, New York, and Ohio.
Cardinal Neckwear, Inc., New York, N.Y.	do	16	District of Columbia, Illinois, Massachusetts, New Jersey, and New York.
I. Miller Salons, New York, N.Y.	Shoes	14	District of Columbia, Illinois, Maryland, New York, and Pennsylvania.
Kitty Kelly Shoe Corp., New York, N.Y.	do	39	Illinois, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, and Pennsylvania.
Baker's Shoe Stores, Birmingham, Ala.	do	22	Alabama.
H. B. Phillips, Inc., Orangeburg, S.C.	do	26	North Carolina and South Carolina.
Nettleton Shops, Inc.	do	45	All States.
Whitehouse & Hardy, New York, N.Y.	Clothing and furnishings	8	Michigan and New York.
Woodrow Stores, Inc., New York, N.Y.	do	15	Alabama, Arizona, Louisiana, North Dakota, and New York.
Virginia Dare Stores, Corp., New York, N.Y.	do	46	Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Wisconsin, and Alabama.
Danley Furniture Co., Opp City, Ala.	Furniture	12	Alabama.
Mather Bros. Stores, Atlanta, Ga.	do	25	Georgia and South Carolina.
Haverty Furniture Co., Atlanta, Ga.	do	28	Georgia, Alabama, Arkansas, Louisiana, North Carolina, South Carolina, Tennessee, Texas, and Virginia.
Jordan Furniture Co., Inc., Waycross, Ga.	do	5	Georgia.
Big 'B' One Hour Cleaners, Richmond, Ky.	Drycleaning	15	Illinois, Iowa, Kentucky, Missouri, Tennessee, and Virginia.
Polan's 5¢-1¢ Stores, Baltimore, Md.	Variety	13	Delaware, Maryland, District of Columbia, and Pennsylvania.
Duval Jewelry Co., Jacksonville, Fla.	Jewelry	20	Georgia.
Rogers Toy Shops, Inc., Washington, D.C.	Miscellaneous	18	District of Columbia, Tennessee, Ohio, Alabama, Maryland, Georgia, Pennsylvania, and Virginia.
Munford Do-It-Yourself Stores, Inc., Atlanta, Ga.	do	43	Alabama, Georgia, North Carolina, South Carolina, Tennessee, and Virginia.
Sterchi Bros. Stores, Inc., Knoxville, Tenn.	Furniture	44	Alabama, Georgia, Kentucky, North Carolina, South Carolina, and Tennessee.
John Mullins & Sons, Inc., Brooklyn, N.Y.	do	17	New York, South Carolina, and Mississippi.
Castro Convertible Corp., New Hyde Park, N.Y.	do	47	Maryland, Michigan, New Jersey, New York, Pennsylvania, Rhode Island, Connecticut, and District of Columbia.
Masters, Inc., Flushing, N.Y.	Discount stores	10	New Jersey, New York, and Pennsylvania.
Van H. Priest Co., Madison, Fla.	Variety	17	Georgia.
Christo's, Inc., Panama City, Fla.	do	25	Alabama and Georgia.
Dixeland Stores, Inc., Fernandina Beach, Fla.	do	13	Georgia.
Lewis Shoe Stores, Waco, Tex.	Shoes	14	Arizona, Illinois, Kentucky, and Texas.
Goubaud de Paris, Inc., New York, N.Y.	Miscellaneous	28	California, Connecticut, Washington, D.C., New Jersey, New York, Pennsylvania, and Canada.
Olan Mills, Inc., Chattanooga, Tenn.	do	35	Alabama, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.
Albright & Wood, Mobile, Ala.	do	20	Alabama and Mississippi.
Baxter Stores, Inc., Trenton, N.J.	Clothing and furnishings	25	Georgia, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, New Jersey, and Alabama.
John Baldwin, Inc., St. Petersburg, Fla.	do	5	South Carolina.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

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FLORIDA—Continued

Company	Category	Number of stores	Other States of operation
The Andover Shops, Palm Beach, Fla.	Clothing and furnishings	6	Massachusetts.
Mothers Beautiful, Miami, Fla.	do.	5	Georgia.
Bottom Dollar Co., Jacksonville, Fla.	do.	8	Do.
Young America & Junior Gent.	do.	6	Maine.
Kilgore & Hurd, Inc., Detroit, Mich.	do.	5	Michigan.
United Shirt Distributors, Inc., Detroit, Mich.	do.	39	Michigan, New York, and Ohio.
Bramson, Inc., Chicago, Ill.	do.	10	Illinois.
Schwobilt Clothes, Columbus, Ga.	do.	29	Alabama, Georgia, Louisiana, and Mississippi.
Fremac's, Tampa, Fla.	do.	23	Georgia.
Auto Lee Stores, Inc., New Orleans, La.	Auto supply	50	Alabama, Louisiana, Mississippi, and Tennessee.
Economy Auto Stores, Inc., Atlanta, Ga.	do.	28	Alabama, Georgia, and Tennessee.

GEORGIA

Good-Val Stores Corp., New York, N.Y.	Clothing and furnishings	26	Florida, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, South Carolina, and Virginia.
Kenwin Shops, Inc., New York	do.	20	Alabama, North Carolina, and South Carolina.
My Shop, Inc., New York	do.	41	Alabama, Illinois, Indiana, Louisiana, Mississippi, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
Sumner Stores Corp., New York, N.Y.	Clothing	33	Alabama, Arizona, Florida, Louisiana, Mississippi, South Carolina, Texas, Tennessee, Virginia, and New York.
Crane-Mayos Clothes, Inc., New York, N.Y.	Clothing and furnishings	40	Delaware, Illinois, Indiana, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
O.P.O. Clothes, New York	do.	34	Alabama, Arizona, California, Florida, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Eleanor Shops, Inc., New York, N.Y.	do.	40	Alabama, Mississippi, North Carolina, Pennsylvania, South Carolina, and Virginia.
M & W Martin Co., Inc., New York	do.	16	Iowa, Kansas, Minnesota, Montana, and North Carolina.
Bomar Shoe Co., Atlanta, Ga.	Shoe	8	North Carolina and South Carolina.
Morton's Shoe Stores, Inc., Boston, Mass.	do.	15	Connecticut, Delaware, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Virginia Dare Stores Corp., New York, N.Y.	Clothing and furnishings	46	Alabama, Florida, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Weiss Bros. Stores, Inc., New York, N.Y.	do.	19	Alabama, Indiana, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.
Wormser Hat Stores, Inc., New York, N.Y.	do.	42	Alabama, Arkansas, Colorado, District of Columbia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Family Booterie, Nashville, Tenn.	Shoe	8	Tennessee.
Mather Bros. Stores, Atlanta, Ga.	Furniture	25	Florida and South Carolina.
National Manufacture and Stores Corp., Atlanta, Ga.	do.	40	Alabama, Louisiana, North Carolina, South Carolina, Tennessee, and Texas.
Haverly Furniture Co., Atlanta, Ga.	do.	28	Alabama, Arkansas, Florida, Louisiana, North Carolina, South Carolina, Tennessee, Texas, and Virginia.
Maxwell Bros., Inc., Augusta, Ga.	do.	34	North Carolina and South Carolina.
Jordan Furniture Co., Inc., Waycross, Ga.	do.	5	Florida.
Buehler Markets, Peoria, Ill.	Food supply	20	Illinois, Iowa, Massachusetts, Missouri, Nebraska, Pennsylvania, and Tennessee.
Duval Jewelry Co., Jacksonville, Fla.	Jewelry	20	Florida.
Rogers Toy Shops, Inc., Washington, D.C.	Miscellaneous	18	District of Columbia, Tennessee, Ohio, Florida, Alabama, Pennsylvania, and Virginia.
Forsyth Fabrics, Inc., Atlanta, Ga.	do.	9	Illinois, Iowa, Kentucky, Louisiana, Tennessee, and Alabama.
Munford Do-It-Yourself Stores, Inc., Atlanta, Ga.	do.	43	Alabama, Florida, North Carolina, South Carolina, Tennessee, and Virginia.
Sterehi Bros. Stores, Inc., Knoxville, Tenn.	Furniture	44	Alabama, Florida, Tennessee, Kentucky, North Carolina, and South Carolina.
Stovall's 5¢-10¢-25¢ Stores, Waynesville, N.C.	Variety	5	North Carolina.
Mack's 5¢-10¢-25¢ Stores, Inc., Sanford, N.C.	do.	31	Virginia and South Carolina.
Morton's Shoe Stores, Inc., Boston, Mass.	Shoe	15	Massachusetts, Connecticut, Delaware, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
United 5¢-10¢ Stores, Inc., Savannah, Ga.	Variety	27	South Carolina.
Wilson's 5¢-10¢-25¢ Stores, Royston, Ga.	do.	7	Virginia.
Red Food Stores, Inc., Chattanooga, Tenn.	Food	15	Tennessee.
The Home Stores, Inc., Chattanooga, Tenn.	do.	27	Tennessee.
Lay & Co., Inc., Cleveland, Tenn.	Variety	18	North Carolina, Tennessee and Alabama.
Economy 5¢-\$1 Stores, Chattanooga, Tenn.	do.	6	Tennessee.
Harper's 5¢-10¢ Stores, Seneca, S.C.	do.	12	South Carolina.
Cassels United Stores, Inc., Easley, S.C.	do.	17	North Carolina and South Carolina.
Redford Stores, Inc., Chattanooga, Tenn.	do.	26	Tennessee and Alabama.
U.S. 5¢-10¢ Stores, Chattanooga, Tenn.	do.	22	Do.
Bower's Stores, Asheville	Discount stores	12	Kentucky, North Carolina, and Tennessee.
David Lee Stores, Birmingham, Ala.	Variety	17	Alabama and Tennessee.
Van H. Priest Co., Madison, Fla.	do.	17	Florida.
Dixieland Stores, Inc., Fernandina Beach, Fla.	do.	13	Do.
Christo's, Inc., Panama City, Fla.	do.	25	Florida and Alabama.
S. E. McConnell Sons Co., Atlanta, Ga.	do.	44	Alabama.
Olan Mills, Inc., Chattanooga, Tenn.	Miscellaneous	35	Alabama, Florida, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.
United Shoe Stores Co., Shreveport, La.	Shoe	44	Louisiana, Arkansas, Texas, Mississippi, Oklahoma, Tennessee, and others.
Hale Drug Co., Nashville, Tenn.	Drugs	14	Alabama, Arkansas, Mississippi, North Carolina, and Tennessee.
Baxter Stores, Inc., Trenton, N.J.	Clothing and furnishings	25	New York, North Carolina, Pennsylvania, South Carolina, Tennessee, New Jersey, Alabama, and Florida.
Mothers Beautiful, Miami Beach, Fla.	do.	5	Florida.
Bottom Dollar Co., Jacksonville, Fla.	do.	8	Do.
Jaunty Dress Shops, Inc., Newark, N.J.	do.	12	New Jersey and Pennsylvania.
Saxon's Candy Kitchen, Inc., Wellington, Ala.	Candy stores	12	Alabama.
Kenwin Shops, Waycross, Ga.	Clothing and furnishings	18	Alabama, North Carolina, and South Carolina.
Schwobilt Clothes, Columbus, Ga.	do.	29	Alabama, Florida, Louisiana, and Mississippi.
Hub Stores, Bainbridge, Ga.	do.	15	Alabama.
Fremac's, Tampa, Fla.	do.	23	Florida.
Economy Auto Stores, Inc., Atlanta, Ga.	Auto supply	28	Alabama, Florida, and Tennessee.

HAWAII

Gem, Inc., St. Louis	Discount stores	7	Colorado, Kansas, Missouri, Minnesota, and Pennsylvania.
Longs Stores, Oakland	Drugstore	15	California.
Hartfield Stores, Inc., Los Angeles, Calif.	Clothing and furnishings	45	Arizona, California, New Jersey, New York, Oregon, and Washington.

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IDAHO

Company	Category	Number of stores	Other States of operation
Roe Bros. Stores, Inc., Beverly Hills, Calif.	Shoe	46	Also operates in Arizona, California, Colorado, New Mexico, Nevada, Oregon, Texas, Washington, and Wyoming.
Rollnick Shoe Co., Denver, Colo.	do	9	Also operates in Colorado, Utah, and Wyoming.
Anderson Lumber Co., Ogden, Utah	Hardware	16	Also operates in Utah.
Home Lumber & Coal Co., Boise, Idaho	do	9	Also operates in Oregon.
Madison Lumber & Mill Co., Spokane, Wash.	do	8	Also operates in Washington.
Mountain States Implement Co., Ogden, Utah	do	9	Also operates in Utah.
M. Alexander, Inc., Boise, Idaho	Clothing and furnishings	8	Also operates in Oregon.
Sigman Food Stores, Spokane, Wash.	Food	15	Also operates in Washington and Oregon.
Lowe Drug Co., Salt Lake City, Utah	Drugstore	5	Also operates in Utah.
Skaggs Drug Center, Inc., Salt Lake City, Utah	do	28	Also operates in Arizona, Colorado, Louisiana, Montana, Nevada, New Mexico, Oklahoma, Texas, and Utah.
Bennett's (Paints), Salt Lake City	Miscellaneous	8	Also operates in California and Utah.
Pay Less Stores, Portland, Oreg.	Drugs	18	Also operates in California, Oregon, and Washington.
Sweethair Shops, Inc., Denver, Colo.	Clothing and furnishings	48	Also operates in Arizona, Colorado, Montana, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming.
Conrad's Inc., Denver, Colo.	Clothing and furnishings	11	Also operates in Colorado, Montana, Oregon, Utah, Washington, and Wyoming.
McMahan's Furniture Co., Santa Monica, Calif.	Furniture	37	Also operates in California and Nevada.
Weisfeld's Inc., Seattle, Wash.	Jewelry	32	Also operates in California, Oregon, and Washington.
M. H. King Co., Burley	Variety	20	Also operates in Montana, Oregon, and Utah.
Fonk's 5¢ to \$1 Stores, Moscow	do	13	Also operates in Washington and California.

ILLINOIS

Adeline Apparel Shops, Inc., New York, N.Y.	Clothing and furnishings	49	Indiana, New York, North Carolina, Ohio, Tennessee, Pennsylvania, Virginia, New Jersey, and Arkansas.
Puritan Federal Clothing Stores, Inc., New York	do	46	Connecticut, Indiana, Maine, Massachusetts, Michigan, New Hampshire, Ohio, Pennsylvania, and Vermont.
Gramont Co., Inc., New York, N.Y.	do	9	California, Maryland, Michigan, Missouri, New Jersey, New York, and Pennsylvania.
My Shop, Inc., New York	do	41	Alabama, Georgia, Indiana, Louisiana, Mississippi, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
Cranes-Mayos Clothes, Inc., New York, N.Y.	do	40	Delaware, Georgia, Illinois, Indiana, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
The Custom Shops, New York, N.Y.	do	26	California, District of Columbia, Maryland, Michigan, Minnesota, New Jersey, New York, Ohio, and Pennsylvania.
Ellay Stores, Inc., New York, N.Y.	do	43	Indiana, North Carolina, Ohio, Pennsylvania, Texas, West Virginia, and New Jersey.
Millinery Stores, New York	do	27	Connecticut, Washington, D.C., Indiana, Minnesota, Ohio, Tennessee, and Texas.
Jane Lee Stores, Inc., New York	do	38	Connecticut, Indiana, Kansas, and Kentucky.
Brooks Bros. Clothing, New York, N.Y.	do	7	California, Massachusetts, and New York.
Lady Oris Hosiery Shops, New York	do	11	Kentucky, Louisiana, New York, Tennessee, and Texas.
Consolidated Retail Stores, Inc., New York, N.Y.	do	29	Alabama, Arkansas, District of Columbia, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Irving O. Livingston, Inc., New York	do	16	Delaware and Indiana.
Cardinal Neckwear, Inc., New York, N.Y.	do	16	District of Columbia, Florida, Massachusetts, New Jersey, and New York.
Brooks Fashion Stores, Inc., New York, N.Y.	do	18	New York, Ohio, and Wisconsin.
Broadstreet's, Inc., New York, N.Y.	do	12	New Jersey, New York, Pennsylvania, and West Virginia.
Bonwit Teller, New York, N.Y.	do	8	Florida, Massachusetts, New York, and Ohio.
Kamher Co., Inc., New York	do	8	Indiana, Maine, Michigan, and Missouri.
Jubilee Shops, Inc., New York	do	15	New York, Kansas, Maryland, New Jersey, Ohio, Pennsylvania, Texas, and Virginia.
Kamber Co., Inc., New York	do	8	Illinois, Maine, Michigan, and Missouri.
Crown Self-Service Shoe Stores, Inc., Chicago, Ill.	Shoe	38	Indiana, Michigan, Ohio, and Wisconsin.
Frank's Shoes, Inc., Chicago, Ill.	do	9	Indiana.
I. Miller Salons, New York, N.Y.	do	14	District of Columbia, Florida, Maryland, New Jersey, New York, and Pennsylvania.
Kitty Kelly Shoe Corp., New York, N.Y.	do	39	Florida, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, and Pennsylvania.
Lloyd & Halg Shoe Corp., New York, N.Y.	do	7	New York and Pennsylvania.
Maling Shoes, Chicago, Ill.	do	31	Indiana, Michigan, Ohio, and Wisconsin.
Midland Shoe Co., St. Louis, Mo.	do	38	Alabama, Arkansas, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.
Modern Retail, Inc., St. Louis, Mo.	do	6	Kansas and Missouri.
Welss & Neumann Shoe Co., St. Louis, Mo.	do	50	Arkansas, Indiana, Iowa, Kansas, Michigan, Minnesota, Texas, and Wisconsin.
Virginia Dare Stores, Corp., New York, N.Y.	Clothing and furnishings	46	Alabama, Florida, Georgia, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
The Krohngold Shoe Co., Cleveland, Ohio	do	20	Michigan and Ohio.
J & J Slater, New York, N.Y.	do	8	California, District of Columbia, New Jersey, and New York.
Leath & Co., Chicago	Furniture	37	Indiana, Iowa, Michigan, Minnesota, and Wisconsin.
L. Fish Furniture Co., Chicago, Ill.	do	11	Indiana, Ohio, and Wisconsin.
Estee Sleep Shops, Chicago	do	10	Wisconsin.
Rhodes-Burford, Inc., St. Louis, Mo.	do	12	Indiana, Missouri, and Kentucky.
City Furniture Co., Chicago	do	5	Indiana.
Blederman Furniture, St. Louis, Mo.	do	11	Missouri.
E. P. Roe Stores, Cleveland, Ohio	Clothing and furnishings	14	Indiana, Iowa, Michigan, Ohio, and Pennsylvania.
Val-U-Dress Shops, Inc., New York, N.Y.	do	42	Indiana, Michigan, and Ohio.
Gelfman's Food Stores, Inc., Davenport, Iowa	Food supply	7	Iowa.
Joe Tittle & Sons, Inc., Gary, Ind.	do	6	Indiana.
Garden City Foods, Inc., Logansport, Ind.	do	6	Do.
Benner Tea Co., Burlington, Iowa	do	33	Iowa and Missouri.
Eagle Food Centers, Inc., Milan, Ill.	do	31	Iowa.
Buehler Markets, Peoria, Ill.	do	20	Georgia, Iowa, Massachusetts, Missouri, Nebraska, Pennsylvania, and Tennessee.
Niemann Bros., Quincy, Ill.	do	6	Missouri.
Tri-City Grocery Co., Granite City, Ill.	do	21	Do.
Ohio Markets, East St. Louis, Ill.	do	6	Do.
The Paxton Wholesale Grocery Co., Danville, Ill.	do	38	Do.
E. G. Shinner & Co., Inc., Chicago, Ill.	do	47	Iowa, Michigan, Ohio, Wisconsin, and Pennsylvania.
Big 'B' One Hour Cleaners, Richmond, Ky.	Dry cleaning	15	Florida, Iowa, Kentucky, Missouri, Tennessee, and Virginia.
Rudolph Bros., Inc., Syracuse, N.Y.	Jewelry	48	Massachusetts, New Jersey, and New York.
Mages Sporting Goods Co., Chicago, Ill.	Miscellaneous store	13	Indiana.
The Wurlitzer Co., (musical instruments) Chicago, Ill.	do	6	Michigan, New York, Ohio, and Pennsylvania.
Factory Tile Warehouse, Inc., Cicero, Ill.	do	15	Wisconsin.
Wood-Drive Co., Rockford, Ill.	do	9	Michigan.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

[The firms are listed by State and because they are included in every State in which they operate stores, necessarily the same firm may be listed in several States]

ILLINOIS—Continued

Company	Category	Number of stores	Other States of operation
Forsyth Fabrics, Inc., Atlanta, Ga.	Miscellaneous	9	Iowa, Kentucky, Louisiana, Tennessee, Alabama, and Georgia.
Lyou & Healy, Inc., (musical merchandise) Chicago, Ill.	Miscellaneous stores	11	California, Indiana, Ohio, and New York.
Colorama Tile Co., Inc., Chicago, Ill.	do	5	Indiana.
M. L. Hunter's 5¢-\$1.00 Stores, Springfield, Mo.	Variety	6	Missouri.
Haffner's 5¢-\$1.00 Stores, Inc., Garrett, Ind.	do	40	Indiana, Michigan, and Ohio.
Spyrison's Shoes, Inc., Des Plaines, Ill.	Shoes	8	Wisconsin.
Bowman Shoe Co., Monmouth, Ill.	do	16	Iowa.
Kostol Shoe Co., East Chicago, Ind.	do	20	Indiana.
Michaels & Mann, Inc., Kalamazoo, Mich.	Clothing and furnishings	10	Indiana, Kentucky, Michigan, and Ohio.
Foreman & Clark of Minnesota, Inc., Minneapolis, Minn.	do	5	Iowa, Minnesota, and Nebraska.
Abrahams Bros.	do	12	Indiana, Iowa, and Ohio.
Tall Girl's Shops, Detroit, Mich.	do	6	Michigan, New York, and Ohio.
Dotty Shops, Inc., St. Louis	do	6	Missouri, Kentucky, and Tennessee.
Leets, Inc., St. Louis, Mo.	do	5	Mississippi and Missouri.
Lishon Shops, Inc., St. Louis, Mo.	do	20	Iowa and Missouri.
Salle Ann Shops, Inc., St. Louis, Mo.	do	19	Missouri and Texas.
Markson Bros., Inc., Los Angeles, Calif.	do	41	California, Arizona, Colorado, Kansas, Maine, Massachusetts, New York, Oklahoma, and Texas.
Stevens Candy Kitchens, Inc., Chicago	Candy stores	35	Indiana and Ohio.
Harvey Bros., Inc., Chicago, Ill.	Clothing and furnishings	6	Indiana, Kansas, and Nebraska.
Equitable Millinery, Chicago, Ill.	do	25	Indiana, Iowa, Kentucky, Michigan, Ohio, and Wisconsin.
Tresslar's 5¢-10¢ Stores, Bicknell, Ind.	Variety	15	Indiana and Kentucky.
Index Notions Co., Sullivan, Ind.	do	17	Indiana.
Giant Stores, Fort Wayne	Discount stores	5	Indiana and New Mexico.
Consumers Mart of America, Inc., Phoenix	do	5	California and Illinois.
Morris Paint Co., St. Louis	Miscellaneous	10	Missouri, Iowa, and Nebraska.
Lewis Shoe Stores, Waco	Shoestore	14	Arizona, Florida, Kentucky, and Texas.
Doubleday Book Shops, New York	Miscellaneous	32	Maryland, Massachusetts, and New York.
Remnant House (Fabrics), Ripley, Tenn.	do	14	Arkansas, Indiana, Kentucky, Missouri, and Tennessee.
Mary Lester of Southern Wisconsin, Milwaukee	do	20	Wisconsin.
Schlegel Drug Store, Davenport	Drugstore	18	Iowa.
May's Drug Stores, Inc., Cedar Rapids	do	14	Do.
Mattoon Thrifty Drug Co., Mattoon	do	7	Kentucky.
Oscar Drug Co., Chicago	do	30	Indiana, Iowa, Minnesota, North Dakota, and Wisconsin.
O'Connor & Goldberg, Inc., Chicago, Ill.	Shoes	20	Indiana.
The Scholl Manufacturing Co., Inc., Chicago, Ill.	do	35	Florida.
Bramson, Inc., Chicago, Ill.	Clothing and furnishings	10	Indiana and Wisconsin.
Benson & Rixon Co., Chicago, Ill.	do	11	Indiana and Iowa.
Bell's Cotton Shops, Inc., Chicago, Ill.	do	14	Indiana and Iowa.
Beenar's, Chicago, Ill.	do	19	Indiana, Iowa, Oklahoma, and Texas.
H. Imbar & Sons, Inc., Belleville, Ill.	do	5	Missouri.
Ross Millinery Co., Inc., Aurora, Ill.	do	8	Iowa.
Tire Mart Stores Corp., New York, N.Y.	Auto supply	27	California, New Jersey, New York, and Pennsylvania.
Major Auto Supply, Inc., St. Louis, Mo.	do	8	Missouri.
Kimmel Auto Supply, Marion, Ill.	do	6	Kentucky.
Western Tire Auto Stores, Inc., Chicago, Ill.	do	48	Indiana, Michigan, and Wisconsin.
Blue Star Auto Stores, Inc., Chicago, Ill.	do	16	Indiana.
J & R Motor Supply Corp., Chicago, Ill.	do	27	Iowa, Michigan, and Missouri.

INDIANA

Adeline Apparel Shops, Inc., New York, N.Y.	Clothing and Furnishings	49	New York, North Carolina, Ohio, Tennessee, Pennsylvania, Virginia, New Jersey, Arkansas, and Illinois.
Puritan Federal Clothing Stores, Inc., New York, N.Y.	do	46	Connecticut, Illinois, Maine, Massachusetts, Michigan, New Hampshire, Ohio, Pennsylvania, and Vermont.
Retail Jenny Shops, Inc., New York, N.Y.	do	20	Ohio, Pennsylvania, and West Virginia.
My Shop, Inc., New York, N.Y.	do	41	Alabama, Georgia, Illinois, Louisiana, Mississippi, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
Cranes-Mayos Clothes, Inc., New York 10, N.Y.	do	40	Delaware, Georgia, Illinois, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
King Clothing Co., Inc., New York, N.Y.	do	18	Michigan, Ohio, and Texas.
Morrison Stores Corp., New York, N.Y.	do	12	Connecticut, Delaware, Michigan, and New York.
Ellay Stores, Inc., New York, N.Y.	do	43	Illinois, North Carolina, Ohio, Pennsylvania, Texas, West Virginia, and New Jersey.
Millinery Stores, New York, N.Y.	do	27	Connecticut, Washington, District of Columbia, Illinois, Minnesota, Ohio, Tennessee, and Texas.
Jane Lee Stores, Inc., New York, N.Y.	do	38	Connecticut, Illinois, Kansas, and Kentucky.
Consolidated Retail Stores, Inc., New York, N.Y.	do	29	Alabama, Arkansas, District of Columbia, Illinois, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Irving O. Livingston, Inc., New York, N.Y.	do	16	Illinois and Delaware.
Joy Stores, Inc., New York, N.Y.	do	18	Kentucky, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, and Wisconsin.
Lockett Shoe Co., Inc., Chicago, Ill.	Shoes	7	Ohio and Kentucky.
American Shoe Co., Inc., St. Louis, Mo.	do	29	Kentucky, Missouri, North Dakota, and Tennessee.
Crown Self-Service Shoe Stores, Inc., Chicago, Ill.	do	38	Illinois, Michigan, Ohio, and Wisconsin.
Frank's Shoes, Inc., Chicago, Ill.	do	9	Illinois.
Midland Shoe Co., St. Louis, Mo.	do	38	Alabama, Arkansas, Iowa, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.
Maling Shoes, Chicago, Ill.	do	31	Illinois, Michigan, Ohio, and Wisconsin.
Weiss & Neumann Shoe Co., St. Louis, Mo.	do	50	Arkansas, Illinois, Iowa, Kansas, Michigan, Minnesota, Texas, and Wisconsin.
The Tash Shoe Co., Hamilton, Ohio	do	6	Ohio and New York.
Jack's Shoes, Inc., Columbus, Ohio	do	11	Ohio.
Gilbert Shoe Co., Columbus, Ohio	do	8	Do.
Epko Shoes, Inc., Toledo, Ohio	do	26	Michigan, New York, and Ohio.
Holthouse Furniture, Inc., Richmond, Va.	Furniture	10	Ohio.
Banner-Whitehill Corp., Indianapolis, Ind.	do	7	Do.
Leath & Co., Chicago, Ill.	do	37	Illinois, Iowa, Michigan, Minnesota, and Wisconsin.
L. Fish Furniture Co., Chicago, Ill.	do	11	Illinois, Ohio, and Wisconsin.
City Furniture Co., Chicago, Ill.	do	5	Illinois.
Rhodes-Burford, Inc., St. Louis, Mo.	do	12	Illinois, Kentucky, and Missouri.
Wormser Hat Stores, Inc., New York, N.Y.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
E. P. Roe Stores, Cleveland, Ohio	do	14	Illinois, Iowa, Michigan, Ohio, and Pennsylvania.
Weiss Bros. Stores, Inc., New York, N.Y.	do	19	Alabama, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.
Wilbur-Rogers, Inc., New York, N.Y.	do	38	Delaware, District of Columbia, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

[The firms are listed by State and because they are included in every State in which they operate stores, necessarily the same firm may be listed in several States]

INDIANA—Continued

Company	Category	Number of stores	Other States of operation
Val-U-Dress Shops, Inc., New York, N.Y.	Clothing and furnishings	42	Michigan, Ohio, and Illinois.
Virginia Dare Stores, Inc., New York, N.Y.	do	46	Alabama, Florida, Georgia, Illinois, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Joc Tittle & Sous, Inc., Gary, Ind.	Food supply	6	Illinois.
Garden City Foods, Inc., Logansport, Ind.	do	6	Do.
Stop & Shop Supermarkets, Inc., Indianapolis, Ind.	do	21	Kentucky.
Hoosier Markets, Inc., Anderson, Ind.	do	10	Ohio.
The Paxton Wholesale Grocery Co., Danville, Ill.	do	38	Illinois.
Fame Laundries, Inc., Indianapolis, Ind.	Drycleaning	22	Kentucky, Ohio, and Pennsylvania.
The Barr Co., Celina, Ohio	Variety	5	Ohio.
Behr Stores, Louisville, Ky.	do	10	Kentucky.
The Model Laundry & Dry Cleaning Co., Cincinnati, Ohio.	Drycleaning	16	Ohio and Kentucky.
Will Sale's Jewelry Stores, Louisville, Ky.	Jewelry	5	Kentucky.
Scott's Stores, Cincinnati	Variety	6	Ohio and Kentucky.
Hart Stores, Inc., Columbus, Ohio	do	8	Do.
Mages Sporting Goods Co., Chicago, Ill.	Miscellaneous Stores	13	Illinois.
Will Sales Appliance Stores, Louisville, Ky.	do	6	Kentucky.
M. N. Landau Stores, Inc., New York, N.Y.	Variety	20	New York, Connecticut, Massachusetts, Michigan, New Hampshire, New Jersey, North Carolina, and Texas.
Lyons & Healy, Inc. (Musical Merchandise), Chicago, Ill.	Miscellaneous Stores	11	California, Illinois, Ohio, and New York.
Coloramic Tile Co., Inc., Chicago, Ill.	do	5	Illinois.
Haffner's 5¢-1¢ Stores, Inc., Garrett, Ind.	Variety	40	Illinois, Michigan, and Ohio.
Tresslar's 5¢-10¢ Stores, Bicknell, Ind.	do	15	Illinois and Kentucky.
Belmont 5¢-1.00 Stores, Fort Wayne, Ind.	do	6	Michigan and Ohio.
McCord 5¢-1.00 Stores, Redkey, Ind.	do	5	Ohio.
Index Notions Co., Sullivan, Ind.	do	17	Illinois.
W. R. Thomas 5¢-1.00 Stores, Inc., Warsaw, Ind.	do	9	Michigan and Ohio.
Paul's 5¢-1.00 Stores, Inc., Ottawa, Ohio	do	5	Ohio.
Equity Dairy Stores, Inc., Lima, Ohio	Food	9	Do.
Giant Stores, Fort Wayne, Ind.	Discount Stores	5	Illinois and New Mexico.
Miracle Marts, New York, N.Y.	do	7	Michigan, Pennsylvania, Rhode Island, and Virginia.
The National Hotel Co., Galveston, Tex.	Drug Stores	14	Alabama, Louisiana, Nebraska, South Carolina, Texas, and Virginia.
Remnant House (fabrics), Ripley, Tenn.	Miscellaneous	14	Arkansas, Illinois, Kentucky, Missouri, and Tennessee.
Joe O. Frank Co., Dayton, Ohio	do	16	Ohio.
The Muir Drug Co., Grand Rapids, Mich.	Drug Stores	28	Michigan, Ohio, and Wisconsin.
Taylor Drug Stores, Louisville, Ky.	do	25	Kentucky.
Oscro Drug Co., Chicago, Ill.	do	30	Illinois, Iowa, Minnesota, North Dakota, and Wisconsin.
Hart Stores, Inc., Columbus, Ohio	do	8	Kentucky and Ohio.
O'Connor & Goldberg, Inc., Chicago, Ill.	Shoes	20	Illinois.
Kostel Shoe Co., East Chicago, Ind.	do	20	Do.
Michaels & Mann, Inc., Kalamazoo, Mich.	Clothing and furnishings	10	Illinois, Kentucky, Michigan, and Ohio.
Homer Hayden's, Inc., Muskegon, Mich.	do	14	Michigan.
Abrahams Bros.	do	12	Illinois, Iowa, and Ohio.
Webster Clothes, Inc., Baltimore, Md.	do	19	District of Columbia, Kentucky, Maryland, New Jersey, North Carolina, Ohio, Virginia, and West Virginia.
Stevens Candy Kitchens, Inc., Chicago, Ill.	Candy	35	Illinois and Ohio.
Harvey Bros., Inc., Chicago, Ill.	Clothing and furnishings	6	Illinois, Kansas, and Nebraska.
The Abel Corp., Columbus, Ohio	Auto supply	36	District of Columbia, Iowa, Maryland, Michigan, Ohio, Pennsylvania, Texas, and West Virginia.
Equitable Millinery, Chicago, Ill.	Clothing and furnishings	25	Illinois, Iowa, Kentucky, Michigan, Ohio, and Wisconsin.
Benson & Rixon Co., Chicago, Ill.	do	11	Illinois and Wisconsin.
Bell's Cotton Shops, Inc., Chicago, Ill.	do	14	Illinois and Iowa.
Beener's, Chicago, Ill.	do	19	Illinois, Iowa, Oklahoma, and Texas.
Southern Supply Co., Louisville, Ky.	Auto supply	6	Kentucky.
Bill's Auto Stores, Inc., Louisville, Ky.	do	14	Do.
Western Tire Auto Stores, Inc., Chicago, Ill.	do	48	Illinois, Michigan, and Wisconsin.
Blue Star Auto Stores, Inc., Chicago, Ill.	do	16	Illinois.

IOWA

Linpark Clothing Corp., New York	Clothing and furnishings	12	Minnesota, Nebraska, New York, South Dakota, and Wisconsin.
M & M Martin Co., Inc., New York	do	16	Georgia, Kansas, Minnesota, Montana, and North Carolina.
Hurrie Bros. Shoe Co., Rochester, Minn.	Shoes	7	Minnesota and Wisconsin.
Middleland Shoe Co., St. Louis, Mo.	do	38	Alabama, Arkansas, Indiana, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.
Tradehome Shoe Stores, Inc., St. Paul, Minn.	do	20	Minnesota, South Dakota, and Wisconsin.
Weiss & Neumann Shoe Co., St. Louis, Mo.	do	50	Arkansas, Illinois, Indiana, Kansas, Michigan, Minnesota, Texas, and Wisconsin.
Leath & Co.	Furniture	37	Illinois, Indiana, Michigan, Minnesota, and Wisconsin.
Wormser Hat Stores, Inc., New York, N.Y.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
E. P. Roe Stores, Cleveland, Ohio	do	14	Illinois, Indiana, Michigan, Ohio, and Pennsylvania.
Geifman's Food Stores, Inc., Davenport, Iowa	Food supply	7	Illinois.
Rivin Bros. Stores, Sioux City, Iowa	do	7	Minnesota and South Dakota.
Hyde & Vredenburg, Inc., Chariton, Iowa	do	38	Missouri.
Benner Tea Co., Burlington, Iowa	do	33	Illinois and Missouri.
Swanson's Super Stores, Cherokee, Iowa	do	8	Minnesota.
Eagle Food Centers, Inc., Milan, Ill.	do	31	Illinois.
Buehler Markets, Peoria, Ill.	do	20	Illinois, Georgia, Massachusetts, Missouri, Nebraska, Pennsylvania, and Tennessee.
E. G. Shinner & Co., Inc., Chicago, Ill.	do	47	Illinois, Michigan, Ohio, Wisconsin, and Pennsylvania.
Big "B" One Hour Cleaners, Richmond, Ky.	Drycleaning	15	Florida, Illinois, Kentucky, Missouri, Tennessee, and Virginia.
Helzberg's Diamond Shops, Inc., Kansas City, Mo.	Jewelry	15	Kansas and Missouri.
Newton Jewelry Co., Joplin, Mo.	do	8	Missouri, Arkansas, and Oklahoma.
C. J. Silver Jewelers, Inc., St. Paul, Mo.	do	9	Minnesota and Wisconsin.
National 5¢-1¢ Stores, St. Paul, Minn.	Variety	12	Minnesota and South Dakota.
Acme-Harding Glass, Inc., Topeka, Kans.	Miscellaneous	16	Colorado, Kansas, Missouri, and Nebraska.
Forsyth Fabrics, Inc., Atlanta, Ga.	do	9	Alabama, Georgia, Illinois, Kentucky, Louisiana, and Tennessee.
P. M. Place Stores Co., Bethany, Mo.	Variety	12	Missouri.
Randall Stores, Inc., Mitchell, S. Dak.	Food	8	South Dakota.
Sunshine Food Markets, Sioux Falls, S. Dak.	do	11	Do.
Great Minneapolis Surplus Stores, Minneapolis	Discount	6	Minnesota, and North Dakota.
Shaver's Food Stores, Omaha, Nebr.	Food	7	Nebraska.
Hinky-Dinky Stores, Omaha, Nebr.	do	38	Do.
Calandra Camera Co., Inc., Omaha	Miscellaneous	9	Do.
Arenz Shoe Co., La Crosse	Shoe	6	Minnesota and Wisconsin.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

[The firms are listed by State and because they are included in every State in which they operate stores, necessarily the same firm may be listed in several States]

IOWA—Continued

Company	Category	Number of stores	Other States of operation
Morris Paint Co., St. Louis.....	Miscellaneous.....	10	Missouri, Illinois, and Nebraska.
Katz Drug Co., Kansas City.....	Drug.....	42	Kansas, Missouri, Oklahoma, and Tennessee.
Schlegel Drug Stores, Davenport.....	do.....	18	Illinois.
May's Drug Stores, Inc., Cedar Rapids.....	do.....	14	Do.
Oscro Drug Co., Chicago.....	do.....	30	Illinois, Indiana, Minnesota, North Dakota, and Wisconsin.
Bowman Shoe Co., Monmouth, Ill.....	Shoes.....	16	Illinois.
Brown's Shoe Fit Co., Shenandoah, Iowa.....	do.....	40	Colorado, Kansas, Missouri, Nebraska, and North Dakota.
Buttrey Stores, Inc., Minneapolis, Minn.....	Clothing and furnishings.....	23	Minnesota, North Dakota, South Dakota, and Wisconsin.
Foreman & Clark of Minnesota, Inc., Minneapolis, Minn.....	do.....	5	Illinois, Minnesota, and Nebraska.
Schaffer's, St. Paul, Minn.....	do.....	8	Colorado, Minnesota, Nebraska, and Texas.
Abrahams Bros.....	do.....	12	Illinois, Indiana, and Ohio.
Beard & Gabelman, Inc., Kansas City.....	do.....	36	Kansas, Missouri, Nebraska, Oklahoma, South Dakota, and Texas.
Lishon Shops, Inc., St. Louis, Mo.....	do.....	20	Illinois and Missouri.
The Ahel Corp., Columbus, Ohio.....	Auto supply.....	36	District of Columbia, Indiana, Maryland, Michigan, Ohio, Pennsylvania, Texas, and West Virginia.
Equitable Millinery, Chicago, Ill.....	Clothing and furnishings.....	25	Illinois, Indiana, Kentucky, Michigan, Ohio, and Wisconsin.
Bell's Cotton Shops, Inc., Chicago, Ill.....	do.....	14	Illinois and Indiana.
Beenar's, Chicago, Ill.....	do.....	19	Illinois, Indiana, Oklahoma, and Texas.
Ross Millinery Co., Inc., Aurora, Ill.....	do.....	8	Illinois.
J & R Motor Supply Corp., Chicago, Ill.....	Auto supply.....	27	Illinois, Michigan, and Missouri.

KANSAS

Jubilee Shops, Inc., New York.....	Clothing and furnishings.....	15	New York, Indiana, Maryland, New Jersey, Ohio, Pennsylvania, Texas, and Virginia.
Consolidated Retail Stores, Inc., New York, N.Y.....	do.....	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Jane Lee Stores, Inc., New York.....	do.....	38	Connecticut, Illinois, Indiana, and Kentucky.
Jaroid Shops, Inc., New York.....	do.....	19	Nebraska, Oklahoma, and South Dakota.
Lewis Apparel Stores, Inc., New York.....	do.....	35	Connecticut, Massachusetts, Michigan, New York, North Carolina, Ohio, and Oklahoma.
M & W Martin Co., Inc., New York.....	do.....	16	Georgia, Iowa, Minnesota, Montana, and North Carolina.
Caldwell's Shoes, Inc., Kansas City, Mo.....	Shoes.....	7	Missouri and South Dakota.
Midwest Drive-In Shoe Store, Kansas City, Mo.....	do.....	8	Missouri.
Modern Retail, Inc., St. Louis, Mo.....	do.....	6	Illinois and Missouri.
Robinson Shoe Co., Kansas City, Mo.....	do.....	6	Missouri.
Steve's Shoes, Inc., Kansas City, Mo.....	do.....	7	Do.
Weiss & Neumann Shoe Co., St. Louis, Mo.....	do.....	50	Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Texas, and Wisconsin.
The Homes Lumber & Supply Co., Ashland, Ky.....	Hardware.....	17	Oklahoma.
Wormser Hat Stores, Inc., New York, N.Y.....	Clothing and furnishings.....	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Payton-Marcus Co., Oklahoma City, Okla.....	do.....	14	Louisiana, Oklahoma, and Texas.
Karbe's, Inc., Pittsburg, Kans.....	Food supply.....	12	Arkansas and Missouri.
Foodtown Supermarkets, Inc., Pittsburg, Kans.....	do.....	25	Missouri and Oklahoma.
Russell's 5¢-\$1.00 Stores, Paola.....	Variety.....	10	Missouri.
Helzberg's Diamond Shops, Inc., Kansas City, Mo.....	Jewelry.....	15	Iowa and Missouri.
Caldwell's, Inc., Goodland, Kans.....	Miscellaneous stores.....	7	Colorado and Nebraska.
Acme-Harding Glass, Inc., Topeka, Kans.....	do.....	16	Colorado, Iowa, Missouri, and Nebraska.
Wolfe's Camera Shops, Inc., Topeka, Kans.....	do.....	5	Missouri.
Gateway Sporting Goods Co., Kansas City, Mo.....	do.....	7	Do.
Gem, Inc., St. Louis, Mo.....	Discount.....	7	Colorado, Hawaii, Missouri, Minnesota, and Pennsylvania.
Milgram Food Stores, Inc., Kansas City, Mo.....	Food.....	20	Missouri.
The Matlock Stores, La Canada, Calif.....	Variety.....	6	California, Colorado, and Oklahoma.
Longwear Paint & Varnish Works, North Kansas City.....	Miscellaneous stores.....	7	Missouri, Oklahoma, and Texas.
Harper Rug Corp., Kansas City, Mo.....	do.....	6	Missouri.
Great Western Paint Co., Kansas City, Mo.....	do.....	6	Do.
Parkview Drugs of Kansas City, Inc., Kansas City, Mo.....	Drug.....	29	Do.
Katz Drug Co., Kansas City, Mo.....	do.....	42	Iowa, Missouri, Oklahoma, and Tennessee.
Crown Drug Co., Kansas City, Mo.....	do.....	44	Missouri and Oklahoma.
Brown's Shoe Fit Co., Shenandoah, Iowa.....	Shoes.....	40	Colorado, Iowa, Missouri, Nebraska, and North Dakota.
Harrison Shoes, Inc., Coffeyville, Kans.....	do.....	10	Oklahoma.
Volume Shoe Distributors, Topeka, Kans.....	do.....	8	Oklahoma and Texas.
Hohart Shoe Co., Wichita, Kans.....	do.....	9	Oklahoma.
Sweetbriar Shops, Inc., Denver, Colo.....	Clothing and furnishings.....	48	Arizona, Colorado, Idaho, Montana, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming.
Beard & Gabelman, Inc., Kansas City.....	do.....	36	Iowa, Missouri, Nebraska, Oklahoma, South Dakota, and Texas.
Markson Bros., Inc., Los Angeles, Calif.....	do.....	41	California, Arizona, Colorado, Illinois, Kansas, Maine, Massachusetts, New York, Oklahoma, and Texas.
Harvey Bros., Inc., Chicago, Ill.....	do.....	6	Illinois, Indiana, and Nebraska.
Miami Sales Co., Miami, Okla.....	Auto supply.....	11	Missouri and Oklahoma.
Midwest Auto Stores, Inc., Sedalia, Mo.....	do.....	12	Missouri.
Marshall's Auto Stores, Kansas City, Mo.....	do.....	13	Do.

KENTUCKY

Michaels & Mann, Inc., Kalamazoo, Mich.....	Clothing and furnishings.....	10	Illinois, Indiana, Michigan, and Ohio.
Beverly Shops, New York, N.Y.....	do.....	7	Ohio and West Virginia.
Tanne-Arden, Inc., New York, N.Y.....	Clothing.....	36	Arizona, California, Colorado, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Texas, Utah, Washington, and New York.
Collins Stores, Inc., New York, N.Y.....	Clothing and furnishings.....	24	Ohio, Pennsylvania, Tennessee, and West Virginia.
Joy Stores, Inc., New York.....	do.....	18	Indiana, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, and Wisconsin.
Consolidated Retail Stores, Inc., New York, N.Y.....	do.....	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Jane Lee Stores, Inc., New York.....	do.....	38	Connecticut, Illinois, Indiana, and Kansas.
Krasner Bros., Inc., New York.....	do.....	26	Maryland, Missouri, Tennessee, and West Virginia.
Lady Oris Hosiery Shops, New York.....	do.....	11	Illinois, Louisiana, New York, Tennessee, and Texas.
American Shoe Co., Inc., St. Louis, Mo.....	Shoes.....	29	Indiana, Missouri, North Dakota, and Tennessee.
Felsway Shoe Corp., New York, N.Y.....	do.....	37	Delaware, District of Columbia, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and South Carolina.
Kitty Kelly Shoe Corp., New York, N.Y.....	do.....	39	Florida, Illinois, Maryland, Michigan, New Jersey, New York, Ohio, and Pennsylvania.
Lockett Shoe Co., Inc., Chicago, Ill.....	do.....	7	Indiana and Ohio.
Carolina Lumber Co., Huntington, W. Va.....	Hardware.....	6	Ohio and West Virginia.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

[The firms are listed by State and because they are included in every State in which they operate stores, necessarily the same firm may be listed in several States]

KENTUCKY—Continued

Company	Category	Number of stores	Other States of operation
The Art Dry Cleaning Co., Cincinnati, Ohio	Drycleaning	10	Ohio.
The Model Laundry & Dry Cleaning Co., Cincinnati, Ohio	do	16	Ohio and Indiana.
Taggart Shoes, Inc., Portsmouth, Ohio	Shoes	10	Ohio and West Virginia.
Nettleton Shops, Inc.	do	45	All States.
Wormser Hat Stores, Inc., New York, N.Y.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Nadler's, Inc., Cincinnati, Ohio	do	5	Ohio.
Wilbur-Rogers, Inc., New York, N.Y.	do	38	Delaware, District of Columbia, Indiana, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
Rhodes-Burford, Inc., St. Louis, Mo.	Furniture	12	Illinois, Indiana, and Missouri.
Sterchi Bros. Stores, Inc., Knoxville, Tenn.	do	44	Tennessee, Alabama, Florida, Georgia, North Carolina, and South Carolina.
Scott's Stores, Cincinnati	Variety	6	Ohio and Indiana.
Hart Stores, Inc., Columbus, Ohio	do	8	Do.
Will Sales Appliance Stores, Louisville, Ky.	Miscellaneous stores	6	Indiana.
Harmeyer's Paint & Wallpaper, Newport, Ky.	do	11	Ohio.
Forsyth Fabrics, Inc., Atlanta, Ga.	Miscellaneous	9	Alabama, Georgia, Illinois, Iowa, Louisiana, and Tennessee.
Tresslar's 5c-10c Stores, Bicknell, Ind.	Variety	15	Indiana and Illinois.
U-Tote-Em Grocery Co., Jackson, Tenn.	Food	11	Tennessee.
W. L. Bentley's 5c-\$1 Stores, Springfield, Tenn.	Variety	10	Tennessee and Alabama.
Kuhn Bros. Co., Nashville, Tenn.	do	43	Alabama, Tennessee, and Mississippi.
Barlo Co., Inc., Cincinnati	Discount stores	6	Ohio.
Arlan's Department Stores, Inc., New Bedford, Mass.	do	11	Connecticut, Massachusetts, Michigan, New York, and Ohio.
Bower's Stores, Asheville, N.C.	do	12	Georgia, North Carolina, and Tennessee.
Lewis Shoe Stores, Waco, Tex.	Shoe store	14	Arizona, Florida, Illinois, and Texas.
Remnant House (fabrics), Ripley, Tenn.	Miscellaneous	14	Arkansas, Illinois, Indiana, Missouri, and Tennessee.
Olan Mills, Inc., Chattanooga, Tenn.	do	35	Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.
Pete Moore Appliance Center, Bristol, Va.	do	10	Washington, D.C., Pennsylvania, Tennessee, and Virginia.
Miller Bros. Wallpaper Co., Cincinnati, Ohio	do	6	Ohio.
Taylor Drug Stores, Louisville, Ky.	Drugstore	25	Indiana.
Mattoon Thrifty Drug Co., Mattoon, Ill.	do	7	Illinois.
Hart Stores, Inc., Columbus, Ohio	Drugs	8	Indiana and Ohio.
Dotty Shops, Inc., St. Louis, Mo.	Clothing and furnishings	6	Missouri, Illinois, and Tennessee.
Webster Clothes, Inc., Baltimore, Md.	do	19	District of Columbia, Indiana, Maryland, New Jersey, North Carolina, Ohio, Virginia, and West Virginia.
Leo's, Inc., Cincinnati, Ohio	Auto supply	18	Ohio.
Equitable Millinery, Chicago, Ill.	Clothing and furnishings	25	Illinois, Indiana, Iowa, Michigan, Ohio, and Wisconsin.
Checker Stores, Cincinnati, Ohio	Auto supply	15	Ohio.
Southern Supply Co., Louisville, Ky.	do	6	Indiana.
B. G. Wholesale, Inc., Bowling Green, Ky.	Food supply	23	Tennessee.
Stop & Shop Supermarkets, Inc., Indianapolis, Ind.	do	21	Indiana.
Fame Laundries, Inc., Indianapolis, Ind.	Drycleaning	22	Indiana, Ohio, and Pennsylvania.
Big "B" One Hour Cleaners, Richmond, Ky.	do	15	Florida, Illinois, Iowa, Missouri, Tennessee, and Virginia.
R. H. Hobbs Co. 5c-\$1 Stores, Pikesville, Ky.	Variety	7	West Virginia.
Charles Stores Co., Inc., New York	do	32	New York, North Carolina, Pennsylvania, Tennessee, and Virginia.
W. R. Whitford's 5c-\$1 Stores, Madisonville, Ky.	do	6	Alabama.
Behr Stores, Louisville	do	10	Indiana.
Perel & Lowenstein, Memphis, Tenn.	Jewelry	7	Arkansas and Tennessee.
Will Sale's Jewelry Stores, Louisville, Ky.	do	5	Indiana.
Bill's Auto Stores, Inc., Louisville, Ky.	Auto supply	14	Do.
Kimmel Auto Supply, Marion, Ill.	do	6	Illinois.

LOUISIANA

My Shop, Inc., New York, N.Y.	Clothing and furnishings	41	Alabama, Georgia, Illinois, Indiana, Mississippi, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
Sumner Stores Corp., New York, N.Y.	Clothing	33	Alabama, Arizona, Florida, Georgia, Mississippi, South Carolina, Texas, Tennessee, Virginia, and New York.
O.P.O. Clothes, New York, N.Y.	Clothing and furnishings	34	Alabama, Arizona, California, Florida, Georgia, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Smart & Thrifty Dresses, Inc., New York, N.Y.	Clothing	33	Alabama, Florida, South Carolina, Texas, and Virginia.
Lady Oris Hosiery Shops, New York, N.Y.	Clothing and furnishings	11	Illinois, Kentucky, New York, Tennessee, and Texas.
Midland Shoe Co., St. Louis, Mo.	Shoes	38	Alabama, Arkansas, Indiana, Iowa, Michigan, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.
Morton's Shoe Stores, Inc., Boston, Mass.	do	15	Connecticut, Delaware, Georgia, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Peyton-Marcus Co., Oklahoma City, Okla.	Clothing and furnishings	14	Kansas, Oklahoma, and Texas.
Woodrow Stores, Inc., New York, N.Y.	do	15	Alabama, Arizona, Florida, North Dakota, and New York.
Weiss Bros. Stores, Inc., New York, N.Y.	do	19	Alabama, Georgia, Indiana, Mississippi, Oklahoma, Tennessee, and Texas.
Big 10 Tire Co., Inc., Jackson, La.	Miscellaneous	5	Mississippi.
National Manufacture & Stores Corp., Atlanta, Ga.	Furniture	40	Alabama, Georgia, North Carolina, South Carolina, Tennessee, and Texas.
Wormser Hat Stores, Inc., New York, N.Y.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Haverty Furniture Co., Atlanta, Ga.	Furniture	28	Alabama, Arkansas, Florida, Georgia, North Carolina, South Carolina, Tennessee, Texas, and Virginia.
Hemenway Furniture Co., Inc., Shreveport, La.	do	10	Texas.
Austin Shoe Stores, Dallas, Tex.	Shoes	33	Do.
Pak-A-Sak Service, Inc., Bossier City, La.	Food supply	48	Alabama.
Plk-Quick Food Stores, Ferriday, La.	do	5	Mississippi.
Handelman's, New Orleans	Variety	14	Do.
Ellis Stores, Inc., Lake Providence	do	7	Arkansas.
P. W. West's Stores, De Ridder	do	5	Texas.
Forsyth Fabrics, Inc., Atlanta, Ga.	Miscellaneous	9	Alabama, Georgia, Illinois, Iowa, Kentucky, and Tennessee.
Jean Heart Shops, Tyler, Tex.	Clothing and furnishings	9	Texas.
Palais Royal, Inc., Houston, Tex.	do	10	Arkansas and Texas.
W. E. Walker Stores, Inc., Columbia, Miss.	Variety	31	Mississippi.
Morton's Shoe Stores, Inc., Boston, Mass.	Shoes	15	Massachusetts, Connecticut, Georgia, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
The National Hotel Co., Galveston, Tex.	Drug	14	Alabama, Indiana, Nebraska, South Carolina, Texas, and Virginia.
Skaggs Drug Center, Inc., Salt Lake City, Utah	do	28	Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oklahoma, Texas, and Utah.
Brookshire's Food Stores, Tyler, Tex.	Food	17	Texas.
Kuhn Paint Co., Houston, Tex.	Miscellaneous	14	Do.
Bay Shoe Co., Inc., New Orleans, La.	Shoes	7	Do.
Rosenblum Shoes, Inc., New Orleans, La.	do	16	Alabama.

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LOUISIANA—Continued

Company	Category	Number of stores	Other States of operation
Newstadt's Shoe Stores, Shreveport, La.	Shoes	8	Texas.
United Shoe Stores Co., Shreveport, La.	do	44	Arkansas, Georgia, Texas, Mississippi, Oklahoma, Tennessee, and others.
R. C. Brown Stores, Jackson, Miss.	Clothing and furnishings	5	Alabama and Mississippi.
Gibson Clothing Stores, El Dorado, Ark.	do	6	Arkansas.
Schwobitt Clothes, Columbus, Ga.	do	29	Alabama, Florida, Georgia, and Mississippi.
Auto-Lee Stores, Inc., New Orleans, La.	Auto supply	50	Alabama, Mississippi, Florida, and Tennessee.
Jack Mashburn, Inc., Hammond, La.	do	5	Mississippi.

MAINE

Puritan Federal Clothing Stores, Inc., New York	Clothing and furnishings	46	Connecticut, Illinois, Indiana, Massachusetts, Michigan, New Hampshire, Ohio, Pennsylvania, and Vermont.
Kamber Co., Inc., New York	do	8	Illinois, Indiana, Michigan, and Missouri.
I. H. Morse Shoe Stores, Inc., Lowell, Mass.	Shoes	8	Massachusetts and New Hampshire.
Diamond National Corp., Biddeford, Maine	Hardware	26	Connecticut, Massachusetts, New Hampshire, Rhode Island, and Vermont.
L. Grossman Sons, Inc., Quincy, Mass.	do	25	Massachusetts, New Hampshire, and Rhode Island.
Middlesex Supply Co., Lowell, Mass.	do	30	Massachusetts and New Hampshire.
Sampson's Supermarkets, Skowhegan, Maine	Food supply	20	Massachusetts.
Elm Farm Food Co., Boston, Mass.	do	40	Massachusetts and New Hampshire.
Brookton Public Markets, Inc., Brookton, Mass.	do	10	Massachusetts.
I. H. Morse Shoe Stores, Inc., Lowell, Mass.	Shoes	8	Massachusetts and New Hampshire.
Allied Shoe Co., 179 Lincoln St., Boston, Mass.	do	33	Massachusetts, Connecticut, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, and Rhode Island.
United Stores Co., Boston, Mass.	Variety	9	Massachusetts.
M. H. Fishman Co., Inc., New York	do	47	New York, Delaware, Massachusetts, New Hampshire, New Jersey, Ohio, Pennsylvania, Vermont, and Virginia.
Jay's Stores, Inc.	Discount	7	Massachusetts.
Zayre Corp., Natick	do	14	Massachusetts, Pennsylvania, and Tennessee.
Wig Warm Moccasins, Inc., 120 Center St. (Box 18), Auburn, Maine	Shoes	15	Massachusetts and New Hampshire.
Young America & Junior Gent, Fort Lauderdale, Fla.	Clothing and furnishings	6	Florida.
Outlet Millinery Co., Inc., Hartford, Conn.	do	5	Connecticut and Massachusetts.
Kennedy's, Inc., Boston, Mass.	do	16	Connecticut, Massachusetts, New Hampshire, and Rhode Island.
Prudence Clothes, Inc., Boston, Mass.	do	8	Connecticut, Massachusetts, and New Hampshire.
LaMode Corset Shops, Maiden, Mass.	do	6	Massachusetts and New Hampshire.
Markson Bros., Inc., Los Angeles, Calif.	do	41	California, Arizona, Colorado, Illinois, Kansas, Massachusetts, New York, Oklahoma, and Texas.
Murray Kaufman Co., Inc., Boston, Mass.	Auto supply	12	Massachusetts and New Hampshire.
Myral's, Inc., Portland, Maine	do	8	New Hampshire.

MARYLAND

Gramont Co., Inc., New York	Clothing and furnishings	9	California, Illinois, Michigan, Missouri, New Jersey, New York, and Pennsylvania.
My Shop, Inc., New York	do	41	Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
Tail Apparel Shops, New York	Clothing	7	District of Columbia, Massachusetts, Michigan, Minnesota, New York, and Pennsylvania.
The Custom Shops, New York	Clothing and furnishings	26	California, District of Columbia, Illinois, Michigan, Minnesota, New Jersey, New York, Ohio, and Pennsylvania.
O.P.O. Clothes, New York	do	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Consolidated Retail Stores, Inc., New York	do	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Missouri, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Krasner Bros., Inc., New York	do	26	Kentucky, Missouri, Tennessee, and West Virginia.
Morton's, New York	do	5	District of Columbia, and Virginia.
Hofstadter & Albert Millinery Corp., New York	do	7	District of Columbia, Ohio, Pennsylvania, and Virginia.
Jubilee Shops, Inc., New York	do	15	New York, Indiana, Kansas, New Jersey, Ohio, Pennsylvania, Texas, and Virginia.
The Ormond Shops, Inc., New York	do	34	New Jersey, Pennsylvania, and West Virginia.
Felsway Shoe Corp., New York	Shoes	37	Delaware, District of Columbia, Kentucky, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and South Carolina.
I. Miller Saisons, New York	do	14	District of Columbia, Florida, Illinois, New Jersey, New York, and Pennsylvania.
Kitty Kelly Shoe Corp., New York	do	39	Florida, Illinois, Kentucky, Michigan, New Jersey, New York, Ohio, and Pennsylvania.
Feiser Shoe Stores, Washington, D.C.	do	13	District of Columbia and Virginia.
People's Hardware Stores, Washington, D.C.	Hardware	19	Do.
Weismar Hat Stores, Inc., New York	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Wilbur-Rogers, Inc., New York	do	38	Delaware, District of Columbia, Indiana, and Kentucky, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
Greenbelt Consumer Services, Inc., Beltsville, Md.	Food supply	10	Virginia.
Blue Ribbon Laundry, Bethesda, Md.	Drycleaning	28	District of Columbia and Virginia.
Thrift Shoe Stores, Inc., Wilkes-Barre, Pa.	Shoe	24	New York and Pennsylvania.
Glick Bros., Inc., Lewistown, Pa.	do	12	Pennsylvania.
Haines Shoe Co., Inc., York, Pa.	do	24	Do.
Siehler Furniture Co., Inc., Baltimore, Md.	Furniture	7	Virginia and West Virginia.
Nettleton Shops, Inc.	Shoe	45	All States.
Nathan & Sylvia Robin, Inc., Washington, D.C.	Drycleaning	14	District of Columbia and Virginia.
Elite Laundry & Cleaning Co., Washington, D.C.	do	10	Do.
Allied Shoe Co., Boston, Mass.	Shoes	33	Massachusetts, Connecticut, Maine, New Hampshire, New Jersey, New York, Pennsylvania, and Rhode Island.
Super Shoe Stores, Cumberland, Md.	do	14	Pennsylvania and West Virginia.
Sunny Surplus Agency, Baltimore, Md.	Miscellaneous stores	14	Pennsylvania.
Market Tire Co., Rockville, Md.	do	8	District of Columbia and Virginia.
Home, Inc. (paints, glass, and tile), Washington, D.C.	do	10	Do.
Ritz Camera Centers, Washington, D.C.	do	7	District of Columbia, Pennsylvania, and New York.
Rogers Toy Shops, Inc., Washington, D.C.	do	18	District of Columbia, Tennessee, Ohio, Florida, Alabama, Georgia, Pennsylvania, and Virginia.
Stidham Tire Stores, Washington, D.C.	do	7	District of Columbia and Virginia.
Charles G. Stott Co., Inc., Washington, D.C.	do	6	Do.
W. R. Winslow Co. (paints), Washington, D.C.	do	8	Do.
Bloch Daneman Co., Milwaukee, Wis.	Furniture	10	Wisconsin, Michigan, Ohio, and Pennsylvania.
Waltersdorf Furniture Co., Inc., York, Pa.	do	12	Pennsylvania.

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MARYLAND—Continued

Company	Category	Number of stores	Other States of operation
S. A. Meyer Co., Washington, Pa.	Jewelry	15	Pennsylvania, New York, Ohio, and West Virginia.
Jay Roy Co., Inc., Harrisburg, Pa.	do	25	Pennsylvania and West Virginia.
Polan's 5¢-1.00 Stores, Baltimore, Md.	Variety	13	Delaware, District of Columbia, Florida, and Pennsylvania.
Lana Lobeli, Inc., Hanover, Pa.	Clothing and furnishings	8	Pennsylvania.
Castro Convertible Corp., New Hyde Park, N.Y.	Furniture	47	Connecticut, Florida, Michigan, New Jersey, New York, Pennsylvania, District of Columbia, and Rhode Island.
H. S. King Co., Washington, D.C.	Variety	5	Virginia and District of Columbia.
National 5¢ & 10¢ Stores, Inc., Newark, Del.	do	7	Delaware and New Jersey.
Daimo Sales Co., Washington, D.C.	Discount stores	5	Washington and Virginia.
Two Guys from Harrison, Garfield	do	17	New Jersey, New York, and Pennsylvania.
Tower Marts, Inc., New York	do	12	Connecticut, Washington, District of Columbia, Massachusetts, New Jersey, and Pennsylvania.
S. N. McBride Co., Inc., Washington, D.C.	Variety	6	Washington, D.C.
Huntsberrys, Inc., Winchester	Shoe store	5	Virginia and Pennsylvania.
Critzer Footwear, Inc., Waynesboro	do	14	Virginia.
Doubleday Book Shops, New York	Miscellaneous	32	Illinois, Massachusetts, and New York.
Brentano's Inc., New York	do	13	Washington, D.C., New Jersey, Virginia, and New York.
Metro Drug Stores, Riverdale	Drugstore	10	Virginia and District of Columbia.
Dart Drug Corp.	do	13	District of Columbia and Virginia.
Silco Cut Price Stores, Inc., Philadelphia, Pa.	Drugs	50	Delaware, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia.
Jelleff's Inc., Washington, D.C.	Clothing and furnishings	6	District of Columbia and Virginia.
Biechman's Kopy Kat, Inc., Washington, D.C.	do	5	Washington, D.C.
Beyda's, Washington, D.C.	do	5	Do.
Jack Stevens Clothes, Detroit, Mich.	do	7	Massachusetts, Michigan, Minnesota, and Ohio.
Sa-Lee Shops, Inc., Irvington, N.J.	do	5	New Jersey and Pennsylvania.
Terry Shops, Newark, N.J.	do	24	New Jersey, Delaware, New York, and Virginia.
Webster Clothes, Inc., Baltimore	do	19	District of Columbia, Indiana, Kentucky, New Jersey, North Carolina, Ohio, Virginia, and West Virginia.
Casual Corner, Inc., Silver Spring	do	6	Washington, D.C.
Hollander's Home & Auto Supplies, Inc., York, Pa.	Auto supply	9	Pennsylvania.
Miller's Auto, Supplies, Inc., Harrisburg, Pa.	do	15	Pennsylvania and West Virginia.
Joe, The Motorists' Friend, Inc., Harrisburg, Pa.	do	25	Pennsylvania, Virginia, and West Virginia.
The Abel Corp., Columbus, Ohio	do	36	District of Columbia, Iowa, Indiana, Michigan, Ohio, Pennsylvania, Texas, and West Virginia.
Market Tire, Inc., Rockville, Md.	do	8	District of Columbia and Virginia.
Lou's Auto Stores, Cumberland, Md.	do	5	West Virginia.
Taubman's, Inc., Baltimore, Md.	do	13	Virginia.

MASSACHUSETTS

Puritan Federal Clothing Stores, Inc., New York	Clothing and furnishings	46	Connecticut, Illinois, Indiana, Maine, Michigan, New Hampshire, Ohio, Pennsylvania, and Vermont.
Good-Val Stores Corp., New York, NY	do	26	Florida, Georgia, New Hampshire, New York, North Carolina, Pennsylvania, South Carolina, and Virginia.
Label Youth Centers, New York	do	40	New Jersey, New York, and Pennsylvania.
Tanne-Arden, Inc., New York, NY	Clothing	36	Arizona, California, Colorado, Kentucky, Oklahoma, Michigan, Nevada, Oregon, Texas, Utah, Washington, and New York.
Tali Apparel Shops, New York, NY	do	7	District of Columbia, Maryland, Michigan, Minnesota, New York, and Pennsylvania.
Roger Kent, Inc., New York, NY	do	13	Connecticut, New York, and Pennsylvania.
Ripley Clothes, New York, NY	do	41	Connecticut, District of Columbia, Missouri, New Jersey, New York, Rhode Island, and Pennsylvania.
Roaman's Women's Fashions Shops, Inc., New York, NY	do	6	New York.
Lorrains Smart Shops, Inc., New York	Clothing and furnishings	16	New York, New Jersey, and Pennsylvania.
Lewis Apparel Stores, Inc., New York	do	35	Connecticut, Kansas, Michigan, New York, North Carolina, Ohio, and Oklahoma.
Cardinal Neckwear, Inc., New York, NY	do	16	District of Columbia, Florida, Illinois, New Jersey, and New York.
Miss New York Frocks, Inc., New York	do	5	New York and Vermont.
P & Q Shops, Inc., New York	do	9	Connecticut, New Hampshire, and Rhode Island.
Brooks Bros. Clothing, New York, N.Y.	do	7	California, Illinois, and New York.
Bonwit Teller, New York, N.Y.	do	8	Florida, Illinois, New York, and Ohio.
Best & Co., Inc., New York, N.Y.	do	19	Connecticut, District of Columbia, Ohio, Michigan, New Jersey, New York, Pennsylvania, and Virginia.
French, Shriner & Urner, Boston, Mass.	Shoes	17	California, Minnesota, New York, Ohio, and Pennsylvania.
I. H. Morse Shoe Stores, Inc., Lowell, Mass.	do	8	Maine and New Hampshire.
J. Baker, Inc., Worcester, Mass.	do	14	Connecticut and Vermont.
Morse Shoe Store Corp., Boston, Mass.	do	38	New Hampshire and New York.
Morton's Shoe Stores, Inc., Boston, Mass.	do	15	Connecticut, Delaware, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Tanen Shoe Co., Lynn, Mass.	do	6	Connecticut and New York.
Tredwell Shoe Corp., Boston, Mass.	do	26	Connecticut and New Hampshire.
Carlisle Hardware Co., Springfield, Mass.	Hardware	12	Connecticut.
Diamond National Corp., Biddeford, Maine	do	26	Connecticut, Maine, New Hampshire, Rhode Island, and Vermont.
L. Grossman Sons, Inc., Quincy, Mass.	do	25	Maine, New Hampshire, and Rhode Island.
Middlesex Supply Co., Lowell, Mass.	do	30	Maine and New Hampshire.
Wilbur-Rogers, Inc., New York, N.Y.	Clothing and furnishings	38	Delaware, District of Columbia, Indiana, Kentucky, Maryland, Missouri, New Jersey, New York, North Carolina, Ohio, Virginia, and Pennsylvania.
Virginia Dare Stores Corp., New York, N.Y.	do	46	Alabama, Florida, Georgia, Illinois, Indiana, Michigan, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Wisconsin, and Minnesota.
Unger's Hosiery & Frocks, Inc., New York, N.Y.	do	11	New York and Connecticut.
Wormser Hat Stores, Inc., New York, N.Y.	do	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Elm Farm Food Co., Boston, Mass.	Food supply	40	Maine and New Hampshire.
Food Marts, Inc., Hoiyoke, Mass.	do	6	Connecticut.
Brockton Public Markets, Inc., Brockton, Mass.	do	10	Maine.
S. S. Pierce Co., Boston, Mass.	do	9	Connecticut.
Sampson's Supermarkets, Skowhegan, Maine	do	20	Maine.
Buehler Markets, Peoria, Ill.	do	20	Illinois, Georgia, Iowa, Missouri, Nebraska, Pennsylvania, and Tennessee.
J. Baker, Inc., Worcester, Mass.	Shoes	14	Connecticut and Vermont.
Kay's-Newport, Inc., Providence, R.I.	do	21	Connecticut, New York, and Rhode Island.
Save-More Furniture Stores, Inc., Lowell, Mass.	Furniture	6	New Hampshire.
Bush & Co., Inc., North Dartmouth, Mass.	Drycleaning	22	Rhode Island.
Royce Superior Laundry, Inc., Springfield, Mass.	do	15	Connecticut.
Laundercenter, Corp., Woodside, N.Y.	do	13	Connecticut, New Jersey, and New York.
National Cleaning Enterprises, Inc., Portage, Pa.	do	33	Pennsylvania, New Jersey, and Rhode Island.
Tredwell Shoe Corp., Boston, Mass.	Shoes	26	Connecticut and New Hampshire.

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MASSACHUSETTS—Continued

Company	Category	Number of stores	Other States of operation
Sparkle Cleaners, Inc., Brookline, Mass.	Drycleaning	35	Connecticut.
I. H. Morse Shoe Stores, Inc., Lowell, Mass.	do	8	Maine and New Hampshire.
Tanen Shoe Co., Lynn, Mass.	do	6	Connecticut and New York.
Magikist Service Corp., Chicago, Ill.	Drycleaning	10	Arizona, California, Florida, Illinois, Indiana, Michigan, New York, Ohio, Pennsylvania, Texas, and Wisconsin.
Allied Shoe Co., Boston, Mass.	Shoes	33	Connecticut, Maine, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, and Rhode Island.
French, Shriner & Urner, Boston, Mass.	do	17	California, Minnesota, New York, Ohio, and Pennsylvania.
Morse Shoe Store Corp., Boston, Mass.	do	38	New Hampshire and New York.
Morton's Shoe Stores, Inc., Boston, Mass.	do	15	Connecticut, Delaware, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Union-Fern, Inc., Troy, N.Y.	Furniture	12	New York and Vermont.
M. N. Landau Stores, Inc., New York	Variety	20	New York, Connecticut, Indiana, Michigan, New Hampshire, New Jersey, North Carolina, and Texas.
Scott Jewelry Co., Lowell, Mass.	Jewelry	11	New Hampshire.
Rudolph Bros., Inc., Syracuse, N.Y.	do	48	Illinois, New Jersey, and New York.
United Stores Co., Boston, Mass.	Variety	9	Maine.
Godin Stores, East Pepperell, Mass.	do	12	New Hampshire.
Max Dichter, Inc., Jamaica Plain	do	5	New Hampshire and Vermont.
J. A. Tepper Co., Orange	do	5	Connecticut.
M. H. Fishman Co., Inc., New York	do	47	New York, Delaware, Maine, New Hampshire, New Jersey, Ohio, Pennsylvania, Vermont, and Virginia.
Alma's, Inc., East Providence, R.I.	Food	21	Rhode Island.
Central Markets, Inc., Schenectady, N.Y.	do	20	New York.
Great Scott Food Markets, Inc., Providence, R.I.	do	17	Rhode Island.
Cumberland Farms, Woonsocket, R.I.	do	6	Do.
Cherry & Webb Co., Providence, R.I.	Clothing and furniture	7	Do.
Jay's Stores, Inc.	Discount stores	5	Maine.
Max Dichter, Inc., Jamaica Plain	do	14	New Jersey, New York, Ohio, and Vermont.
Zayre Corp., Natick	do	11	Maine, Pennsylvania, and Tennessee.
Arlan's Department Stores, Inc., New Bedford	do	12	Connecticut, Kentucky, Michigan, New York, and Ohio.
Tower Marts, Inc., New York	do	13	District of Columbia, Maryland, New Jersey, and Pennsylvania.
Popular Markets, Inc., Springfield	Food	13	Connecticut.
Growers Outlet, Inc., Springfield	do	19	Do.
Star Market Co., Newtonville	do	12	Rhode Island.
Market Basket Stores, Inc., Medfield	do	7	Connecticut.
New England Stores, New Britain, Conn.	Variety	27	Do.
Atlas Paint & Supply Co., Brookline	Miscellaneous	9	New Hampshire.
Fryer's Cigar Co., Brockton, Mass.	do	32	Rhode Island.
Doubleday Book Shops, New York	do	9	New York, Illinois, and Maryland.
Wadsworth, Howland & Co., Boston, Mass.	do	15	Connecticut.
Mack Drug Co., Hackensack	Drugstore	15	New Jersey and New York.
Wig Warm Moccasins, Inc., Auburn, Maine	Shoes	12	Maine and New Hampshire.
Adams Management Corp., New York, N.Y.	Clothing and furnishings	6	Minnesota, New Jersey, New York, Pennsylvania, Rhode Island, and Texas.
The Andover Shops, Palm Beach, Fla.	do	5	Florida.
Outlet Millinery Co., Inc., Hartford, Conn.	do	7	Connecticut and Maine.
Jack Stevens Clothes, Detroit, Mich.	do	16	Maryland, Michigan, Minnesota, and Ohio.
Kennedy's, Inc., Boston, Mass.	do	8	Connecticut, Maine, New Hampshire, and Rhode Island.
Lee Shops, Boston, Mass.	do	8	Connecticut.
Prudence Clothes, Inc., Boston, Mass.	do	7	Connecticut, Maine, and New Hampshire.
Stork Time, Inc., Boston, Mass.	do	8	Connecticut and Rhode Island.
Berkeley Stores, Inc., Framingham	do	5	New Hampshire.
Beverly's, Inc., Shoppers World, Framingham	do	6	Connecticut.
LaMode Corset Shops, Malden	do	6	Maine and New Hampshire.
The Primrose Shops, Quincy	do	6	Rhode Island.
Van's Hosiery Stores, Inc., Roxbury, Mass.	do	23	Ohio and Pennsylvania.
Markson Bros., Inc., Los Angeles, Calif.	do	41	California, Arizona, Colorado, Illinois, Kansas, Maine, New York, Oklahoma, and Texas.
Benny's, Inc., Providence, R.I.	Auto supply	21	Connecticut and Rhode Island.
Thorpe Automotive Co., Pawtucket, R.I.	do	6	Rhode Island.
Kaufman & Chernick, Inc., Pawtucket, R.I.	do	23	Do.
Eastern Auto Parts Co., Malden, Mass.	do	10	New Hampshire.
Murray Kaufman Co., Inc., Boston, Mass.	do	12	Maine and New Hampshire.

MICHIGAN

Cort Shoes, Inc., Cleveland, Ohio	Shoes	32	Ohio.
The Krohngold Shoe Co., Cleveland, Ohio	do	20	Illinois and Ohio.
The Wurlitzer Co. (Musical Instruments), Chicago, Ill.	Miscellaneous stores	6	Illinois, New York, Ohio, and Pennsylvania.
Wood-Drive Co., Rockford, Ill.	do	9	Illinois.
Morton's Shoe Stores, Inc., 16 Greenbaum St., Boston, Mass.	Shoes	15	Massachusetts, Connecticut, Georgia, Louisiana, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
M. N. Landau Stores, Inc., New York	Variety	20	New York, Connecticut, Indiana, Massachusetts, New Hampshire, New Jersey, North Carolina, and Texas.
Castro Convertible Corp., New Hyde Park, N.Y.	Furniture	47	Connecticut, Florida, Maryland, New Jersey, New York, Pennsylvania, District of Columbia, and Rhode Island.
Page Co., Inc., Dallas, Tex.	Clothing and furnishings	9	California, Ohio, and Texas.
Bloch Daneman Co., Milwaukee, Wis.	Furniture	10	Wisconsin, Maryland, Ohio and Pennsylvania.
W. R. Thomas 5¢-\$1 Stores, Inc., Warsaw, Ind.	Variety	9	Indiana and Ohio.
Belmont 5¢-\$1 Stores, Fort Wayne, Ind.	do	6	Do.
Haffner's 5¢-\$1 Stores, Inc., Garrett, Ind.	do	40	Indiana, Illinois, and Ohio.
The Good Housekeeping Shops, Detroit	Miscellaneous	20	Canada.
Mathisen Tire Co., Duluth	do	7	Minnesota, North Dakota, and Wisconsin.
Arlan's Department Stores, Inc., New Bedford	Discount stores	11	Connecticut, Kentucky, Massachusetts, New York, and Ohio.
Miracle Marts, New York	do	7	Indiana, Pennsylvania, Rhode Island, and Virginia.
Aene Quality Paint Co., Detroit	Miscellaneous	5	Alabama.
Peck Drugs Stores, Inc., Grand Rapids	Drugstore	18	Ohio.
The Muir Drug Co., Grand Rapids	do	28	Indiana, Ohio, and Wisconsin.
Jack Stevens Clothes, Detroit	Clothing and furnishings	7	Maryland, Massachusetts, Minnesota, and Ohio.
Kilgore & Hurd, Inc., Detroit	do	5	Florida.
Tall Girl's Shops, Detroit	do	6	Illinois, New York, and Ohio.
United Shirt Distributors, Inc., Detroit, Mich.	do	39	Florida, New York, and Ohio.
Winkelman Bros., Inc., Detroit	do	42	Ohio.
The Fintex Corp., Detroit	do	20	Pennsylvania.
House of Nine, Inc., Los Angeles, Calif.	do	34	California, Arizona, Texas, Colorado, Utah, Missouri, Oregon, and Pennsylvania.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

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MICHIGAN—Continued

Company	Category	Number of stores	Other States of operation
H. & W. Auto Accessories Co., Toledo, Ohio	Auto supply	11	Ohio.
The Abel Corp., Columbus, Ohio	do.	36	District of Columbia, Iowa, Indiana, Maryland, Ohio, Pennsylvania, Texas, and West Virginia.
Equitable Millinery, Chicago, Ill.	Clothing and furnishings	25	Illinois, Indiana, Iowa, Kentucky, Ohio, and Wisconsin.
Western Tire Auto Stores, Inc., Chicago, Ill.	Auto supply	48	Illinois, Indiana, and Wisconsin.
J & R Motor Supply Corp., Chicago, Ill.	do.	27	Illinois, Iowa, and Missouri.
Virginia Darc Stores, Corp., New York, N.Y.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Vul-U-Dress Shops, Inc., New York, N.Y.	do.	42	Illinois, Indiana, and Ohio.
Whitehouse & Hardy, New York, N.Y.	do.	8	Florida and New York.
Wormser Hat Stores, Inc., New York, N.Y.	do.	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
E. G. Shinner & Co., Inc., Chicago, Ill.	Food supply	47	Illinois, Iowa, Ohio, Wisconsin, and Pennsylvania.
Epko Shoes, Inc., Toledo, Ohio	Shoes	26	Indiana, New York, and Ohio.
Nettleton Shops, Inc.	do.	45	All States.
Buckeye Shoe Co., Akron, Ohio	do.	6	Ohio.
Cort Shoes, Inc., Cleveland	do.	32	Do.
Michaels & Mann, Inc., Kalamazoo	Clothing and furnishings	10	Illinois, Indiana, Kentucky, and Ohio.
Homer Hayden's, Inc., Muskegon	do.	14	Indiana.
Ferrols, Saginaw	do.	10	Ohio and Wisconsin.
Gramont Co., Inc., New York, N.Y.	do.	9	California, Illinois, Maryland, Missouri, New Jersey, New York, and Pennsylvania.
Puritan Federal Clothing Stores, Inc., New York	do.	46	Connecticut, Illinois, Indiana, Maine, Massachusetts, New Hampshire, Ohio, Pennsylvania, and Vermont.
The Custom Shops, New York, N.Y.	do.	26	California, District of Columbia, Illinois, Maryland, Minnesota, New Jersey, New York, Ohio, and Pennsylvania.
King Clothing Co., Inc., New York	do.	18	Indiana, Ohio, and Texas.
Tall Apparel Shops, New York, N.Y.	Clothing	7	District of Columbia, Maryland, Massachusetts, Minnesota, New York, and Pennsylvania.
Tanne-Arden, Inc., New York, N.Y.	do.	36	Arizona, California, Colorado, Kentucky, Massachusetts, Nevada, Oklahoma, Oregon, Texas, Utah, Washington, and New York.
Morrison Stores Corp., New York	Clothing and furnishings	12	Connecticut, Delaware, Indiana, and New York.
National Bellas Hess Stores, Inc., New York	do.	45	Minnesota, Missouri, North Carolina, South Carolina, and Puerto Rico.
Orva Hosiery, New York	do.	8	Ohio.
Lewis Apparel Stores, Inc., New York	do.	35	Connecticut, Kansas, Massachusetts, New York, North Carolina, Ohio, and Oklahoma.
Best & Co., Inc., New York, N.Y.	do.	19	Connecticut, District of Columbia, Ohio, Massachusetts, New Jersey, New York, Pennsylvania, and Virginia.
Kamber Co., Inc., New York	do.	8	Illinois, Indiana, Maine, and Missouri.
Crown Self-Service Shoe Stores, Inc., Chicago, Ill.	Shoes	38	Illinois, Indiana, Ohio, and Wisconsin.
Kitty Kelly Shoe Corp., New York, N.Y.	do.	39	Florida, Illinois, Kentucky, Maryland, New Jersey, New York, Ohio, and Pennsylvania.
Maling Shoes, Chicago, Ill.	do.	31	Illinois, Indiana, Ohio, and Wisconsin.
Midland Shoe Co., St. Louis, Mo.	do.	38	Alabama, Arkansas, Indiana, Iowa, Louisiana, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.
Morton's Shoe Stores, Inc., Boston, Mass.	do.	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Weiss & Neumann Shoe Co., St. Louis, Mo.	do.	50	Arkansas, Illinois, Indiana, Iowa, Kansas, Minnesota, Texas, and Wisconsin.
Leath & Co., Chicago, Ill.	Furniture	37	Illinois, Indiana, Iowa, Minnesota, and Wisconsin.
Grimm Bros., Detroit, Mich.	do.	29	Ohio, and Ontario, Canada.
E. P. Roe Stores, Cleveland, Ohio	Clothing and furnishings	14	Illinois, Indiana, Iowa, Ohio, and Pennsylvania.

MINNESOTA

Tall Apparel Shops, New York, N.Y.	Clothing	7	District of Columbia, Maryland, Massachusetts, Michigan, New York, and Pennsylvania.
The Custom Shops, New York, N.Y.	Clothing and furnishings	26	California, District of Columbia, Illinois, Maryland, Michigan, New Jersey, New York, Ohio, and Pennsylvania.
Lipark Clothing Corp., New York, N.Y.	do.	12	Iowa, Nebraska, New York, South Dakota, and Wisconsin.
National Bellas Hess Stores, Inc., New York, N.Y.	do.	45	Michigan, Missouri, North Carolina, South Carolina, and Puerto Rico.
M & W Martin Co., Inc., New York, N.Y.	do.	16	Georgia, Iowa, Kansas, Montana, and North Carolina.
Millinery Stores, New York, N.Y.	do.	27	Connecticut, Washington, D.C., Illinois, Indiana, Ohio, Tennessee, and Texas.
Frensh, Shriner & Urner, Boston, Mass.	Shoes	17	California, Massachusetts, New York, Ohio, and Pennsylvania.
Hurle Bros. Shoe Co., Rochester, Minn.	do.	7	Iowa and Wisconsin.
Tradehome Shoe Stores, Inc., St. Paul, Minn.	do.	20	Iowa, South Dakota, and Wisconsin.
Weiss & Neumann Shoe Co., St. Louis, Mo.	do.	50	Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Texas and Wisconsin.
T. G. Alfin Co., Minnesota	Hardware	11	Wisconsin.
Lincoln Stores, Inc., Atwater, Minn.	do.	8	North Dakota and Montana.
Scheel's Hardware, Fargo, N. Dak.	do.	37	Indiana, Iowa, Michigan, and Wisconsin.
Leath & Co., Chicago, Ill.	Furniture	9	Missouri and Nebraska.
Davidson-Boutell Co., Minneapolis, Minn.	do.	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Virginia Darc Stores Corp., New York, N.Y.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Wormser Hat Stores, Inc., New York, N.Y.	do.	8	Iowa and South Dakota.
Swanson's Super Stores, Cherokee, Iowa	Food supply	12	Do.
Rivlin Bros. Stores, Sioux City, Iowa	do.	9	Wisconsin and Iowa.
National 56-81 Stores, St. Paul, Minn.	Variety	15	North Dakota and South Dakota.
C. J. Silver Jewelers, Inc., St. Paul, Minn.	Jewelry	8	North Dakota.
Lindrud's 56-81 Stores, Madison, Wis.	Variety	5	South Dakota and South Carolina.
Piggly Wiggly Northland Co., Fargo, N. Dak.	Food	6	Iowa and North Dakota.
Geyerman's, Inc., Mitchell, S.C.	Clothing and furnishings	7	Colorado, Hawaii, Kansas, Missouri, and Pennsylvania.
Great Minneapolis Surplus Stores, Minneapolis, Minn.	Discount stores	11	Michigan, North Dakota, and Wisconsin.
Gem, Inc., St. Louis, Mo.	do.	6	Wisconsin.
Mathisen Tire Co., Duluth, Minn.	Miscellaneous	6	Iowa and Wisconsin.
Super Valu Stores, Inc., Hopkins, Minn.	Food	8	North Dakota.
Arenz Shoe Co., La Crosse	Shoestore	30	Illinois, Indiana, Iowa, North Dakota, and Wisconsin.
Associated Drugs, Inc., Bemidji	Drugstore	23	Iowa, North Dakota, South Dakota, and Wisconsin.
Oscro Drug Co., Chicago, Ill.	do.	5	Illinois, Iowa, and Nebraska.
Buttrey Stores, Inc., Minneapolis, Minn.	Clothing and furnishings	8	Colorado, Iowa, Nebraska, and Texas.
Foreman & Clark of Minnesota, Inc., Minneapolis, Minn.	do.	12	Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Texas.
Schaffer's, St. Paul, Minn.	do.	7	Maryland, Massachusetts, Michigan, and Ohio.
Adams Management Corp., New York, N.Y.	do.		
Jack Stevens Clothes, Detroit, Mich.	do.		

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

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MISSISSIPPI

Company	Category	Number of stores	Other States of operation
Kuhn Bros. Co., Nashville, Tenn.	Variety	43	Also operates in Kentucky, Tennessee, and Alabama.
Big 10 Tire Co., Inc., Jackson	Miscellaneous	5	Also operates in Louisiana.
Sunflower Stores, Inc., Indianola	Food	8	Also operates in Arkansas.
Wallace E. Johnson Supply Co., Memphis	Miscellaneous	7	Also operates in Arkansas and Tennessee.
Olan Mills, Inc., Chattanooga	do	35	Also operates in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia.
Hale Drug Co., Nashville, Tenn.	Drugs	14	Also operates in Alabama, Arkansas, Georgia, North Carolina, and Tennessee.
Albright & Wood Inc., Mobile	Drugstore	20	Also operates in Alabama and Florida.
United Shoe Stores Co., 2901 Linwood Ave., Shreveport, La.	Shoes	44	Also operates in Louisiana, Arkansas, Georgia, Texas, Oklahoma, Tennessee, and others.
R. C. Brown Stores, Jackson	Clothing and furnishings	5	Also operates in Alabama and Louisiana.
Leets, Inc., St. Louis, Mo.	do	5	Also operates in Missouri and Illinois.
Schwoblit Clothes, Columbus, Ga.	do	29	Also operates in Alabama, Florida, Georgia, and Mississippi.
Auto-Lee Stores, Inc., New Orleans, La.	Auto supply	50	Also operates in Alabama, Florida, Louisiana, and Tennessee.
Jack Mashburn, Inc., Hammond, La.	do	5	Also operates in Louisiana.
My Shop, Inc., New York	Clothing and furnishing	41	Alabama, Georgia, Illinois, Indiana, Louisiana, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
O.P.O. Clothes, New York	do	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, North Carolina, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Sumner Stores Corp., New York, N.Y.	Clothing	33	Alabama, Arizona, Florida, Georgia, Louisiana, South Carolina, Texas, Tennessee, Virginia, and New York.
Eleanor Shops, Inc., New York, N.Y.	Clothing and furnishings	40	Alabama, Georgia, North Carolina, Pennsylvania, South Carolina, and Virginia.
Midland Shoe Co., St. Louis, Mo.	Shoes	38	Alabama, Arkansas, Indiana, Iowa, Louisiana, Michigan, Missouri, Oklahoma, Texas, and Wisconsin.
Weiss Bros. Stores, Inc., New York, N.Y.	Clothing and furnishings	19	Alabama, Georgia, Indiana, Louisiana, Oklahoma, Tennessee, and Texas.
Pik-Quick Food Stores, Ferriday, La.	Food supply	5	Louisiana.
W. E. Walker Stores, Inc., Columbia	Variety	31	Do.
Handelman's, New Orleans, La.	do	14	Do.
Barnett-Levey Co., Memphis, Tenn.	do	14	Arkansas and Tennessee.
John Mullins & Sons, Inc., Brooklyn, N.Y.	Furniture	17	Florida, South Carolina, and New York.

MISSOURI

Gramont Co., Inc., New York, N.Y.	Clothing and furnishings	9	Also operates in California, Illinois, Maryland, Michigan, New Jersey, New York, and Pennsylvania.
Ripley Clothes, New York, N.Y.	Clothing	41	Also operates in District of Columbia, Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island.
Montaldo's, New York	Clothing and furnishings	11	Also operates in Arkansas, Colorado, New Jersey, North Carolina, Ohio, Oklahoma, and Virginia.
National Bellas Hess Stores, Inc., New York	do	45	Also operates in Michigan, Minnesota, North Carolina, South Carolina, and Puerto Rico.
Consolidated Retail Store, Inc., New York, N.Y.	do	29	Also operates in Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Ohio, Oklahoma, Pennsylvania, Tennessee, and Texas.
Krasner Bros., Inc., New York	do	26	Also operates in Kentucky, Maryland, Tennessee, and West Virginia.
Kamber Co., Inc., New York	do	8	Also operates in Illinois, Indiana, Maine, and Michigan.
Midwest Drive-In Shoe Store, Kansas City, Mo.	Shoes	8	Also operates in Kansas.
Modern Retail, Inc., St. Louis, Mo.	do	6	Also operates in Illinois and Kansas.
Robinson Shoe Co., Kansas City, Mo.	do	6	Also operates in Kansas.
Steve's Shoes, Inc., Kansas City, Mo.	do	7	Do.
American Shoe Co., Inc., St. Louis, Mo.	do	29	Also operates in Indiana, Kentucky, North Dakota, and Tennessee.
Caldwells' Shoes, Inc., Kansas City, Mo.	do	7	Also operates in Kansas and South Dakota.
Geo. E. Keith Co., Brockton, Mass.	do	14	Also operates in Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Utah.
Midland Shoe Co., St. Louis, Mo.	do	38	Also operates in Alabama, Arkansas, Indiana, Iowa, Louisiana, Michigan, Mississippi, Oklahoma, Texas, and Wisconsin.
Rhodes-Burford Inc., St. Louis, Mo.	Furniture	12	Also operates in Illinois, Indiana, and Kentucky.
Biederman Furniture Co., St. Louis, Mo.	do	11	Also operates in Illinois.
Davidson-Boutell Co., Minneapolis, Minn.	do	9	Also operates in Minnesota and Nebraska.
Wilbur-Rogers, Inc., New York, N.Y.	Clothing and furnishings	38	Also operates in Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
Virginia Dare Stores, Corp., New York, N.Y.	do	46	Also operates in Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Wormser Hat Stores, Inc., New York, N.Y.	do	42	Also operates in Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Ohio, Oklahoma, Tennessee, and Texas.
Karbe's Inc., Pittsburg, Kans.	Food supply	12	Also operates in Arkansas, and Kansas.
Hyde & Vredenburg, Inc., Chariton, Iowa	do	38	Also operates in Iowa.
Foodtown Supermarkets, Inc., Pittsburg, Kans.	do	25	Also operates in Kansas and Oklahoma.
Bonner Tea Co., Burlington, Iowa	do	33	Also operates in Iowa and Illinois.
Niemann Bro., Quincy, Ill.	do	6	Also operates in Illinois.
Tri-City Grocery Co., Granite City, Ill.	do	21	Also operates in Illinois.
Buehler Markets, Peoria, Ill.	do	20	Also operates in Illinois, Georgia, Iowa, Massachusetts, Nebraska, Pennsylvania, and Tennessee.
Ohio Markets, East St. Louis, Ill.	do	6	Also operates in Illinois.
Big "B" One Hour Cleaners, Richmond, Ky.	Dry cleaning	15	Florida, Illinois, Iowa, Kentucky, Tennessee, and Virginia.
Newport Stores, Springfield, Mo.	Variety	7	Also operates in Arkansas.
M. L. Hunter's 5¢-1.00 Stores, Springfield, Mo.	do	6	Also operates in Illinois.
P. M. Place Stores Co., Bethany	do	12	Also operates in Iowa.
Friedman's, Charleston, Mo.	do	5	Also operates in Arkansas.
Horton's 5¢-10¢-25¢ Stores, Laman, Mo.	do	5	Do.
Acme-Harding Glass, Inc.	Miscellaneous stores	16	Also operates in Colorado, Iowa, Kansas, and Nebraska.
Wolfe's Camera Shops, Inc., Topeka, Kans.	do	5	Also operates in Kansas.
Helzberg's Diamond Shops, Inc., Kansas City, Mo.	Jewelry	15	Also operates in Iowa and Kansas.
Newton Jewelry Co., Joplin, Mo.	do	8	Also operates in Arkansas, Iowa, and Oklahoma.
Russell's 5¢-1.00 Stores, Paola, Kans.	Variety	10	Also operates in Kansas.
Gateway Sporting Goods Co., Kansas City	Miscellaneous	7	Also operates in Kansas.
Gem, Inc., St. Louis	Discount stores	7	Also operates in Colorado, Hawaii, Kansas, Minnesota, and Pennsylvania.
Fred Wolfmann, Inc., Kansas City	Food	9	Also operates in Oklahoma.
Milgram Food Stores, Inc., Kansas City	do	20	Also operates in Kansas.
Walton's 5¢-10¢ Stores, Bentonville, Ark.	Variety	11	Also operates in Arkansas.
Morris Paint Co., St. Louis	Miscellaneous	10	Also operates in Illinois, Iowa, and Nebraska.
Longwear Paint & Varnish Works, North Kansas City	do	7	Also operates in Kansas, Oklahoma, and Texas.
Harper Rug Corp., Kansas City	do	6	Also operates in Kansas.

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MISSOURI—Continued

Company	Category	Number of stores	Other States of operation
Great Western Paint Co., Kansas City, Mo.	Miscellaneous	6	Also operates in Kansas.
Remnant House (fabrics), Ripley, Tenn.	do	14	Also operates in Arkansas, Illinois, Indiana, Kentucky, and Tennessee.
Crank Drug Co., Springfield	Drugstore	9	Also operates in Arkansas.
Parkview Drugs of Kansas City, Inc., Kansas City	do	29	Also operates in Kansas.
Katz Drug Co., Kansas City	do	42	Also operates in Iowa, Kansas, Oklahoma, and Tennessee.
Crown Drug Co., Kansas City	do	44	Also operates in Kansas and Oklahoma.
Brown's Shoe Fit Co., 507½ West Clarinde St., Shenandoah, Iowa	Shoes	40	Also operates in Colorado, Iowa, Kansas, Nebraska, and North Dakota.
Beard & Gabelman, Inc., Kansas City	Clothing and furnishings	36	Also operates in Iowa, Kansas, Nebraska, Oklahoma, South Dakota, and Texas.
Rothschild's, Kansas City	do	7	Also operates in Oklahoma.
Dotty Shops, Inc., St. Louis	do	6	Also operate in Illinois, Kentucky, and Tennessee.
Leets, Inc., St. Louis, Mo.	do	5	Also operates in Illinois and Mississippi.
Lisbon Shops, Inc., St. Louis, Mo.	do	20	Also operates in Illinois and Iowa.
Salle Ann Shops, Inc., St. Louis, Mo.	do	19	Also operates in Illinois and Texas.
House of Nine, Inc., Los Angeles, Calif.	do	34	Also operates in California, Arizona, Texas, Colorado, Michigan, Utah, Oregon, and Pennsylvania.
Miami Sales Co., Miami, Okla.	Auto supply	11	Also operates in Kansas and Oklahoma.
H. Imber & Sons, Inc., Belleville, Ill.	Clothing and furnishings	5	Also operates in Illinois.
Midwest Auto Stores, Inc., Sodalla, Mo.	Auto supply	12	Also operates in Kansas.
Major Auto Supply, Inc., St. Louis, Mo.	do	8	Also operates in Illinois.
Marshall's Auto Stores, Kansas City, Mo.	do	13	Also operates in Kansas.
J & R Motor Supply Co., Chicago, Ill.	do	27	Also operates in Illinois, Iowa, and Michigan.

MONTANA

M & W Martiu Co., Inc., New York	Clothing and furnishings	16	Also operates in Georgia, Iowa, Kansas, Minnesota, and North Carolina.
Scheel's Hardware, Fargo, N. Dak.	Hardware	8	Also operates in North Dakota and Minnesota.
M. H. King Co., Burley, Idaho	Variety	20	Also operates in Idaho, Oregon, and Utah.
F. T. Reynolds Co., Glendive	Food	8	Also operates in North Dakota.
Sawyer Stores, Inc., Billings	do	13	Also operates in Wyoming.
Skaggs Drug Center, Inc., Salt Lake City, Utah	Drugstore	28	Also operates in Arizona, Colorado, Idaho, Louisiana, Nevada, New Mexico, Oklahoma, Texas, and Utah.
Sweetbriar Shops, Inc., Denver, Colo.	Clothing and furnishings	48	Also operates in Arizona, Colorado, Idaho, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming.
Conrad's, Inc., Denver, Colo.	do		Also operates in Colorado, Idaho, Oregon, Utah, Washington, and Wyoming.

NEBRASKA

L. A. Sullivan Stores, Grant	Variety	6	Colorado.
Aemie, Harding Glass, Inc., Topeka, Kans.	Miscellaneous	16	Colorado, Iowa, Kansas, and Missouri.
Caldwell's, Inc., Goodland, Kans.	do	7	Kansas and Colorado.
L. B. Murphy Co., Scotts Bluff	Variety	8	Wyoming.
Anderson's, Inc., Pierre, S. Dak.	Food		South Dakota.
Food Centers, Inc., Hastings	do	8	Wyoming.
Shaver's Food Stores, Omaha	do	7	Iowa.
Hinky-Dinky Stores, Omaha	do	38	Do.
The National Hotel Co., Galveston, Tex.	Drug	14	Alabama, Indiana, Louisiana, South Carolina, Texas, and Virginia.
Calandra Camera Co., Inc., Omaha	Miscellaneous	9	Iowa.
Morris Paint Co., St. Louis	do	10	Missouri, Illinois, and Iowa.
Brown's Shoe Fit Co., Shenandoah, Iowa	Shoes	40	Colorado, Iowa, Kansas, Missouri, and North Dakota.
Foreman & Clark of Minnesota, Inc., Minneapolis, Minn.	Clothing and furnishings	5	Illinois, Iowa, and Minnesota.
Schaffer's, St. Paul, Minn.	do	8	Colorado, Iowa, Minnesota, and Texas.
Sweetbriar Shops, Inc., Denver, Colo.	do	48	Arizona, Colorado, Idaho, Montana, Kansas, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming.
Linpark Clothing Corp., New York	do	12	Iowa, Minnesota, New York, South Dakota, and Wisconsin.
Jarold Shops, Inc., New York	do	19	Kansas, Oklahoma, and South Dakota.
L. Goldman Shoe Co., Denver, Colo.	Shoe	5	Colorado, South Dakota, and Wyoming.
S. A. Foster Lumber Co., Lincoln, Nebr.	Hardware	9	Colorado and Wyoming.
Davidson-Boutell Co., Minneapolis, Minn.	Furniture	9	Minnesota and Missouri.
Virginia Dare Stores Corp., New York, N.Y.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Worsmer Hat Stores, Inc., New York, N.Y.	do	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Ohio, Oklahoma, Tennessee, and Texas.
Buehler Markets, Peoria, Ill.	Food supply	20	Illinois, Georgia, Iowa, Massachusetts, Missouri, Pennsylvania, and Tennessee.
Beard & Gabelman, Inc., Kansas City	Clothing and furnishings	36	Iowa, Missouri, Kansas, Oklahoma, South Dakota, and Texas.
Harvey Bros., Inc., Chicago, Ill.	do	6	Illinois, Indiana, and Kansas.
Stickney's, Inc., Sterling, Colo.	Auto supply	10	Colorado and Wyoming.

NEVADA

Tanne-Arden, Inc., New York, N.Y.	Clothing	36	Also operates in Arizona, California, Colorado, Kentucky, Massachusetts, Michigan, Oklahoma, Oregon, Texas, Utah, Washington, and New York.
National Shoe Co., Ltd., Los Angeles, Calif.	Shoes	32	Also operates in Arizona, California, and Oregon.
Roe Bros. Stores, Inc., Beverly Hills, Calif.	do	46	Also operates in Arizona, California, Colorado, Idaho, New Mexico, Oregon, Texas, Washington, and Wyoming.
McMahon's Furniture Co., Santa Monica, Calif.	Furniture	37	Also operates in California and Idaho.
Riviera Sofa Bed Co., Long Beach, Calif.	do	5	Also operates in California.
Rogers Jewelry Co., Inc., Modesto, Calif.	Jewelry	8	Also operates in California and Oregon.
Gensler-Lee Diamonds, San Francisco, Calif.	do	26	Also operates in California.
Skaggs Drug Center, Inc., Salt Lake City, Utah	Drugstore	28	Also operates in Arizona, Colorado, Idaho, Louisiana, Montana, New Mexico, Oklahoma, Texas, and Utah.
Allen's Cash Stores, Toole, Utah	Food	8	Also operates in Utah.
Concord Drug Store, Inc., Concord	Drugstore	8	Also operates in California.
Joseph Magin Co., Inc., San Francisco, Calif.	Clothing and furnishings	15	Do.
Lanz of California, Inc., Los Angeles, Calif.	do	11	Do.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

[The firms are listed by State and because they are included in every State in which they operate stores, necessarily the same firm may be listed in several States]

NEW HAMPSHIRE

Company	Category	Number of stores	Other States of operation
Puritan Federal Clothing Stores, Inc., New York, N.Y.	Clothing and furnishings	46	Connecticut, Illinois, Indiana, Maine, Massachusetts, Michigan, Ohio, Pennsylvania, and Vermont.
Good-Val Stores Corp., New York, N.Y.	do	26	Florida, Georgia, Massachusetts, New York, North Carolina, Pennsylvania, South Carolina, and Virginia.
P & Q Shops, Inc., New York, N.Y.	do	9	Connecticut, Massachusetts, and Rhode Island.
Druss Stores, New York, N.Y.	do	6	Connecticut, New Jersey, and New York.
Morton's Shoe Stores, Inc., Boston, Mass.	Shoes	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New York, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Tredwell Shoe Corp., Boston, Mass.	do	26	Connecticut and Massachusetts.
I. H. Morse Shoe Stores, Inc., Lowell, Mass.	do	8	Maine and Massachusetts.
Morse Shoe Store Corp., Boston, Mass.	do	38	Massachusetts and New York.
Diamond National Corp., Biddeford, Maine	Hardware	26	Connecticut, Maine, Massachusetts, Rhode Island, and Vermont.
L. Grossman Sons, Inc., Quincy, Mass.	do	25	Maine, Massachusetts, and Rhode Island.
Middlesex Supply Co., Lowell, Mass.	do	30	Maine and Massachusetts.
Save-Mor Furniture Stores, Inc., Lowell, Mass.	Furniture	6	Massachusetts.
Elm Farm Food Co., Boston, Mass.	Food supply	40	Massachusetts and Maine.
Scott Jewelry Co., Lowell, Mass.	Jewelry	11	Massachusetts.
Allied Shoe Co., Boston, Mass.	Shoes	33	Massachusetts, Connecticut, Maine, Rhode Island, Maryland, New Jersey, New York, and Pennsylvania.
M. N. Landau Stores, Inc., New York	Variety	20	New York, Connecticut, Indiana, Massachusetts, Michigan, New Jersey, North Carolina, and Texas.
M. H. Fishman Co., Inc., New York	do	47	New York, Delaware, Maine, New Jersey, Ohio, Pennsylvania, Vermont, Virginia, and Massachusetts.
Godin Stores, East Pepperell, Mass.	do	12	Massachusetts.
Max Dichter, Inc., Jamaica Plains, Mass.	do	5	Massachusetts and Vermont.
Atlas Paint & Supply Co., Brookline	Miscellaneous	27	Massachusetts.
Adams Drug Co., Inc.	Drugs	20	Rhode Island and New York.
Wig Warm Moccasins, Inc., Auburn, Maine	Shoes	15	Massachusetts and Maine.
Kennedy's, Inc., Boston, Mass.	Clothing and furnishings	16	Connecticut, Maine, Massachusetts, and Rhode Island.
Prudence Clothes, Inc., Boston, Mass.	do	8	Connecticut, Maine, and Massachusetts.
Berkeley Stores, Inc., Frammingham, Mass.	do	8	Massachusetts.
LaMode Corset Shops, Malden, Mass.	do	6	Massachusetts and Maine.
Eastern Auto Parts Co., Malden, Mass.	Auto supply	10	Massachusetts.
Murray Kaufman Co., Inc., Boston, Mass.	do	12	Maine and Massachusetts.
Myral's, Inc., Portland, Maine	do	8	Maine.

NEW JERSEY

Kitty Kelly Shoe Corp., New York, N.Y.	Shoes	39	Also operates in Florida, Illinois, Kentucky, Maryland, Michigan, New York, Ohio, and Pennsylvania.
Adler Sons Shoe Corp., New York, N.Y.	do	24	Also operates in New York.
Comfort Coal-Lumber Co., Hackensack, N.J.	Hardware	do	Do.
Virginia Dare Stores, Corp., New York, N.Y.	Clothing and furnishings	46	Also operates in Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Wilbur-Rogers, Inc., New York, N.Y.	do	38	Also operates in Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
Wallachs, Inc., New York, N.Y.	do	13	Also operates in New York.
Weber & Heihroner, New York, N.Y.	do	12	Do.
Alfred H. Cohen & Son, Upper Darby, Pa.	Shoes	6	Also operates in Delaware and Pennsylvania.
J. B. Van Selver Co., Camden	Furniture	7	Do.
Foam Rubber Center, Passaic, N.J.	do	10	Also operates in New York and Pennsylvania.
National Cleaning Enterprises, Inc., Portage, Pa.	Drycleaning	33	Pennsylvania, Massachusetts, and Rhode Island.
Launderecenter Corp., Woodside, N.Y.	do	13	Connecticut, Massachusetts, and New York.
Corsetorium, Inc., Forest Hills, N.Y.	Clothing and furnishings	14	New York.
Rainbow Shops, Inc., Brooklyn, N.Y.	do	30	Do.
Mae Moon Associates, Brooklyn, N.Y.	do	30	Do.
Natelson Bros., Inc., Elizabeth, N.J.	do	6	Connecticut, and New York.
Sa-Lee Shops, Inc., Irvington, N.J.	do	5	Maryland and Pennsylvania.
Stevens Retail Stores, Inc., Jersey City, N.J.	do	14	Connecticut and New York.
Jaunty Dress Shops, Inc., Newark, N.J.	do	12	Georgia and Pennsylvania.
Terry Shops, Newark, N.J.	do	24	Delaware, Maryland, New York, and Virginia.
Webster Clothes, Inc., Baltimore, Md.	do	19	Washington, D.C., Indiana, Kentucky, Maryland, North Carolina, Ohio, Virginia, and West Virginia.
Hartfield Stores, Inc., Los Angeles, Calif.	do	45	California, Arizona, New York, Oregon, Washington, and Hawaii.
Shellenberger's, Inc., Bridgeport, Pa.	Candy stores	19	Pennsylvania.
Rose Auto Supply Co., Philadelphia, Pa.	Auto supply	17	Do.
Penn-Jersey Auto Stores, Inc., Philadelphia, Pa.	do	27	Delaware, District of Columbia, and Pennsylvania.
Tire Mart Stores Corp.	do	27	California, New York, Pennsylvania, and Illinois.
Samuel Schultz Co., Philadelphia	Miscellaneous	7	Pennsylvania.
Finnaren & Haley, Inc., Philadelphia	do	11	Do.
M&H Sporting Goods Co., Philadelphia	do	7	Do.
Allied Hobbies, Philadelphia	do	8	Do.
Amber Tile Discount Houses, Philadelphia	do	5	Do.
M. Buten & Sons, Philadelphia	do	19	Pennsylvania and Delaware.
Cutler's Paint Stores, Philadelphia	do	11	Pennsylvania.
Sav-On Drugs, Inc., Plainfield	Drugstore	7	New York.
Mack Drug Co., Hackensack	do	15	New York and Massachusetts.
Sileo Cut Price Stores, Inc., Philadelphia	Drugs	50	Delaware, Maryland, Pennsylvania, North Carolina, Virginia, and West Virginia.
National 5¢ & 10¢ Stores, Inc., Newark, Del.	Variety	7	Delaware and Maryland.
I. Simon Co., Inc., New York, N.Y.	Shoes	27	New York and Pennsylvania.
Baxter Stores, Inc., Trenton, N.J.	Clothing and furnishings	25	Alabama, Florida, Georgia, New York, North Carolina, Pennsylvania, South Carolina, and Tennessee.
Adams Management Corp., New York, N.Y.	do	12	Massachusetts, Minnesota, New York, Pennsylvania, Rhode Island, and Texas.
Two Guys From Harrison, Garfield	Discount Stores	17	Maryland, New York, and Pennsylvania.
Masters, Inc., Flushing	do	10	Florida, New York, and Pennsylvania.
Tower Marts, Inc., New York	do	12	Connecticut, Washington, D.C., Maryland, Massachusetts, and Pennsylvania.
Bargain City, U.S.A., Philadelphia	do	13	Pennsylvania and Virginia.
Allen Carpet Shops, Inc., Jamaica	Miscellaneous	11	New York.
Raphan Carpet Corp., Franklin Square	do	15	New York and Connecticut.
Churchill Custom Hi-Fidelity, Ltd., Brooklyn	do	7	New York.
Rayco Manufacturing Co., Paramus	do	30	do
Atlantic Appliance Co., Inc., Neptune	do	12	Pennsylvania.
Trader Horn Appliance Stores, Hahsrouck Heights	do	8	New York.
Tires Inc., New York	do	8	Do.
Kaufman Carpet Co., Inc., New York	do	11	Do.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

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NEW JERSEY—Continued

Company	Category	Number of stores	Other States of operation
Goubaud de Paris, Inc., New York	Miscellaneous	28	California, Connecticut, Washington, D.C., Florida, New York, Pennsylvania, and Canada.
Davega Stores Corp., New York	do	28	New York.
Brutano's Inc., New York	do	13	Washington, D.C., Virginia, Maryland, and New York.
Peper Bros., Inc., Richmond Hill, N.Y.	do	10	New York.
Adeline Apparel Shops, Inc., New York	Clothing and furnishings	49	Also operates in Arkansas, Illinois, Indiana, New York, North Carolina, Ohio, Tennessee, Pennsylvania, and Virginia.
Albrecht's Retail Stores, Inc., New York, N.Y.	do	18	Also operates in New York and Connecticut.
Gramont Co., Inc., New York	do	9	Also operates in California, Illinois, Maryland, Michigan, Missouri, New York, and Pennsylvania.
Label Youth Centers, New York	do	40	Also operates in Massachusetts, New York, and Pennsylvania.
My Shop, Inc., New York	do	41	Also operates in Alabama, Georgia, Illinois, Indiana, Louisiana, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
The Custom Shops, New York, N.Y.	do	26	Also operates in California, District of Columbia, Illinois, Maryland, Michigan, Minnesota, New York, Ohio, and Pennsylvania.
Knickerbocker Haberdasher, Inc., New York	do	7	Also operates in New York.
Rio Frocks, Inc., New York	Clothing	10	Also operates in New York and Pennsylvania.
Ripley Clothes, New York	do	41	Also operates in Connecticut, District of Columbia, Massachusetts, Missouri, New York, Pennsylvania, and Rhode Island.
Scot Ties, Ltd., New York, N.Y.	do	9	Also operates in New York.
Sultana Stores, Inc., New York	do	16	Do.
Best & Co., Inc., New York, N.Y.	Clothing and furnishings	19	Also operates in Connecticut, District of Columbia, Massachusetts, Michigan, New York, Ohio, Pennsylvania, and Virginia.
S. L. Hirsch Stores, Inc., New York	do	20	Also operates in New York.
Montaldo's, New York	do	11	Also operates in Arkansas, Colorado, Missouri, North Carolina, Ohio, Oklahoma, and Virginia.
Ellay Stores, Inc., New York, N.Y.	do	43	Also operates in Illinois, Indiana, North Carolina, Ohio, Pennsylvania, Texas, and West Virginia.
Lorrains Smart Shops Inc., New York	do	16	Also operates in Massachusetts, New York, and Pennsylvania.
Joy Stores, Inc., New York	do	18	Also operates in Indiana, Kentucky, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, and Wisconsin.
Cosmo Hosiery Shops, New York, N.Y.	do	7	Also operates in Connecticut and New York.
Broadstreet's Inc., New York, N.Y.	do	12	Also operates in Illinois, New Jersey, New York, Pennsylvania, and West Virginia.
Lady Rose Stores Inc., New York	do	15	Also operates in New York.
Jubilee Shops, Inc., New York	do	15	Also operates in New York, Indiana, Kansas, Maryland, Ohio, Pennsylvania, Texas, and Virginia.
Milmar Shops, Inc., New York	do	12	Also operates in New York.
Browning Fifth Avenue, New York, N.Y.	do	6	Do.
Cardinal Neckwear, Inc., New York, N.Y.	do	16	Also operates in District of Columbia, Florida, Illinois, Massachusetts, and New York.
Maternally Yours, Inc., New York	do	10	Also operates in New York.
Midtown Millinery Shops, Inc., New York	do	15	Do.
Druss Stores, New York, N.Y.	do	6	Also operates in Connecticut, New Hampshire, and New York.
The Ormond Shops, Inc., New York	do	34	Also operates in Maryland, Pennsylvania, and West Virginia.
London Character Shoes, New York, N.Y.	Shoes	29	Also operates in Connecticut and New York.
Perry's Shoes, Fort Plain, N.Y.	do	14	Do.
Felsway Shoe Corp., New York, N.Y.	do	37	Also operates in Delaware, District of Columbia, Kentucky, Maryland, New York, North Carolina, Ohio, Pennsylvania, and South Carolina.
I. Miller Salons, New York, N.Y.	do	14	Also operates in the District of Columbia, Florida, Illinois, Maryland, New York, and Pennsylvania.
Pediforme Shoe Co., Inc., New York, N.Y.	do	7	New York.
J & J Slater, New York, N.Y.	do	8	California, District of Columbia, Illinois, and New York.
Stuart Brooks, Inc., New York, N.Y.	do	11	New York.
Wiso Shoe Stores, Inc., New York, N.Y.	do	17	Do.
Allied Shoe Co., Boston, Mass.	do	33	Massachusetts, Connecticut, Maine, Maryland, New Hampshire, New York, Pennsylvania, and Rhode Island.
M. N. Landau Stores, Inc., New York, N.Y.	Variety	20	New York, Connecticut, Indiana, Massachusetts, Michigan, New Hampshire, North Carolina, and Texas.
S. E. Nichols Co., New York, N.Y.	do	10	New York.
M. H. Lamson, Inc., New York, N.Y.	do	17	Connecticut, and New York.
Lerner Sleep Products, Richmond Hill, N.Y.	Furniture	30	New York, N.Y.
Abelson's Inc., Newark, N.J.	Jewelry	14	Do.
Littman's Jewelers Stores, Highland Park, N.J.	do	9	Pennsylvania.
Ray's Jewelry Stores, Philadelphia, Pa.	do	5	Do.
Rudolph Bros., Inc., Syracuse, N.Y.	do	48	Illinois, Massachusetts, and New York.
Teppin's, Inc., Newark, N.J.	do	18	New York and Pennsylvania.
M. H. Fishman Co., Inc., New York, N.Y.	Variety	47	New York, Delaware, Maine, Massachusetts, New Hampshire, Ohio, Pennsylvania, Vermont, and Virginia.
Fisher-Beer Co., New York, N.Y.	do	10	New York.
D.R. Pruitt Stores, Philadelphia, Pa.	do	5	Pennsylvania.
Penn Beef Co., Philadelphia, Pa.	Food	11	Do.
Merit Farms, Inc., New York, N.Y.	do	35	New York.
Rockower Bros., Inc., Philadelphia, Pa.	Clothing and furnishings	25	Delaware, New York, Pennsylvania, and Virginia.
Famous Maid Shops, Philadelphia, Pa.	do	24	Pennsylvania.
Ritter's Millinery & Sportswear, Wilkes-Barre, Pa.	do	15	Do.
Ward & Ward, Inc., Philadelphia, Pa.	do	17	New York, and Pennsylvania.
Daniel Renzin Apparel, Kennett Square, Pa.	do	7	Pennsylvania.
Adams Clothes, Inc., Philadelphia, Pa.	do	16	Delaware and Pennsylvania.
Golden Dawn Hosiery Shops, Inc., Philadelphia, Pa.	do	10	Pennsylvania.
Castro Convertible Corp., New Hyde Park, N.Y.	Furniture	47	Connecticut, Florida, Maryland, Michigan, New York, Pennsylvania, District of Columbia, and Rhode Island.
Smilow Thielco Corp., New York, N.Y.	do	5	New York.
Mallory, Inc., New Rochelle, N.Y.	do	5	Do.
Sachs Quality Stores, Inc., New York, N.Y.	do	10	Do.
W. & J. Sloane, Inc., New York, N.Y.	do	11	California, Connecticut, District of Columbia, and New York.
Honey Dew Food Stores, Inc., Teaneck, N.J.	Food	9	Connecticut and New York.
Phillipsburg Grocery Co., Phillipsburg, N.J.	do	9	Pennsylvania.
Kings Supermarkets, Inc., Irvington, N.J.	do	12	New York and Pennsylvania.
Max Dichter, Inc., Jamaica Plains, N.J.	Discount stores	5	New York, Massachusetts, Ohio, and Vermont.

NEW MEXICO

Roe Bros. Stores, Inc., Beverly Hills, Calif.	Shoes	46	Arizona, California, Colorado, Idaho, Nevada, Oregon, Texas, Washington, and Wyoming.
Given Bros., Inc., El Paso, Tex.	do	20	Arizona and Texas.
Hoath Furniture Co., Amarillo, Tex.	Furniture	10	Also operates in Texas.
C. G. Morrison & Co. 5¢-\$1.00 Stores, Alpine, Tex.	Variety	18	Do.
E. B. Mott Co., Dallas, Tex.	do	42	Do.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

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NEW MEXICO—Continued

Company	Category	Number of stores	Other States of operation
Giaut Stores, Fort Wayne	Discount stores	5	Also operates in Illinois, and Indiana.
Cashway Supermarkets, Hobbs	Food	6	Also operates in Texas.
Shop Rite Foods, Inc., Albuquerque	do	49	Do.
B. & J. Drug Co., Booker	Drugstore	5	Also operates in Texas and Oklahoma.
Skaggs Drug Center, Inc., Salt Lake City, Utah	do	28	Also operates in Arizona, Colorado, Idaho, Louisiana, Montana, Nevada, Oklahoma, Texas, and Utah.
Circle "K" Drive-In Food Stores, El Paso, Tex.	Food	34	Also operates in Arizona, and Texas.
Evans Foodway Stores, Big Lake, Tex.	do	10	Also operates in Texas.
Sweetbriar Shops, Inc., Denver, Colo.	Clothing and furnishings	48	Arizona, Colorado, Idaho, Montana, Kansas, Nebraska, Oklahoma, South Dakota, Texas, Utah, and Wyoming.
Maternity Modes, Phoenix, Ariz.	do	6	Also operates in Arizona and Texas.

NEW YORK

Albert's Hosiery Shops, New York, N.Y.	Clothing and furnishings	10	Rhode Island.
Albrecht's Retail Stores, Inc., New York, N.Y.	do	18	Connecticut and New Jersey.
Adeline Apparel Shops, Inc., New York, N.Y.	do	49	Arkansas, Illinois, Indiana, New Jersey, North Carolina, Ohio, Tennessee, Pennsylvania, and Virginia.
Arlene Shops, Inc., New York, N.Y.	do	8	Ohio, Pennsylvania, and West Virginia.
Baxter Stores, Inc., Trenton, N.J.	do	25	North Carolina, Pennsylvania, South Carolina, Tennessee, New Jersey, Alabama, Florida, and Georgia.
Adams Management Corp., New York, N.Y.	do	12	Massachusetts, Minnesota, New Jersey, Pennsylvania, Rhode Island, and Texas.
The Printz Co., Inc., Jamestown, N.Y.	do	8	Ohio and Pennsylvania.
Stollman Shops, Forest Hills, N.Y.	do	7	Vermont.
Corsetorium, Inc., Forest Hills, N.Y.	do	14	New Jersey.
My Maternity Shop, Inc., Buffalo, N.Y.	do	45	Connecticut, Ohio, Pennsylvania, and West Virginia; Ontario and Quebec, Canada.
Shapiro & Hersch, Elmira, N.Y.	do	17	Pennsylvania.
Rainbow Shops, Inc., Brooklyn, N.Y.	do	30	New Jersey.
Mac Moon Associates, Brooklyn, N.Y.	do	30	Do.
Tall Girl's Shops, Detroit, Mich.	do	6	Illinois, Michigan, and Ohio.
United Shirt Distributors, Inc., Detroit, Mich.	do	39	Florida, Michigan, and Ohio.
Natelson Bros., Inc., Elizabeth, N.J.	do	6	Connecticut and New Jersey.
Stevens Retail Stores, Inc., Jersey City, N.J.	do	14	Do.
Terry Shops, Newark, N.J.	do	24	New Jersey, Delaware, Maryland, and Virginia.
Markson Bros., Inc., Los Angeles, Calif.	do	41	California, Arizona, Colorado, Illinois, Kansas, Maine, Massachusetts, Oklahoma, and Texas.
Hartfield Stores, Inc., Los Angeles, Calif.	do	45	California, Arizona, New Jersey, Oregon, Washington, and Hawaii.
Tire Mart Stores Corp., New York, N.Y.	Auto supply	27	California, New Jersey, Pennsylvania, and Illinois.
Strauss Stores Corp., Maspeth, Long Island, N.Y.	do	42	Connecticut.
Retail Jenny Shops, Inc., New York, N.Y.	Clothing and furnishings	20	Indiana, Ohio, Pennsylvania, and West Virginia.
Puritan Federal Clothing Stores, Inc., New York, N.Y.	do	45	Connecticut, Illinois, Indiana, Maine, Massachusetts, Michigan, New Hampshire, Ohio, Pennsylvania, and Vermont.
Polly Perrey Stores, Inc., New York, N.Y.	do	20	Connecticut and Pennsylvania.
Gladys Shops, Inc., New York, N.Y.	do	9	Midwest.
Glamor Shops, Inc., New York, N.Y.	do	50	Southeastern States.
Gramont Company, Inc., New York, N.Y.	do	9	California, Illinois, Indiana, Maryland, Michigan, Missouri, New Jersey, and Pennsylvania.
Good-Val Stores Corp., New York, N.Y.	do	26	Florida, Georgia, Massachusetts, New Hampshire, North Carolina, Pennsylvania, South Carolina, and Virginia.
Kenwin Shops, Inc., New York, N.Y.	do	20	Alabama, Georgia, North Carolina, and South Carolina.
Label Youth Centers, New York, N.Y.	Clothing	40	Massachusetts, New Jersey, and Pennsylvania.
My Shop, Inc., New York, N.Y.	Clothing and furnishings	41	Alabama, Georgia, Illinois, Indiana, Iowa, Mississippi, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
O.P.O. Clothes, New York, N.Y.	do	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Knickerbocker Haberdasher, Inc., New York, N.Y.	do	7	New Jersey.
The Custom Shops, New York, N.Y.	do	26	California, District of Columbia, Illinois, Maryland, Michigan, Minnesota, New Jersey, Ohio, and Pennsylvania.
Cranes-Mayos Clothes, Inc., New York, N.Y.	do	40	Delaware, Georgia, Illinois, Indiana, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
King Clothing Co., Inc., New York, N.Y.	do	18	Indiana, Michigan, Ohio, and Texas.
Rio Frocks, Inc., New York, N.Y.	Clothing	10	New Jersey and Pennsylvania.
Ripley Clothes, New York, N.Y.	do	41	Connecticut, District of Columbia, Massachusetts, Missouri, New Jersey, New York, Pennsylvania, and Rhode Island.
Roaman's Women's Fashions Shops, Inc., New York, N.Y.	do	6	Massachusetts.
Roger Kent, Inc., New York, N.Y.	do	13	Connecticut, Massachusetts, and Pennsylvania.
Scot Ties, Ltd., New York, N.Y.	do	9	New Jersey.
Sultana Stores, Inc., New York, N.Y.	do	16	Do.
Tall Apparel Shops, New York, N.Y.	do	7	District of Columbia, Maryland, Massachusetts, Michigan, Minnesota, and Pennsylvania.
Town Stores, New York, N.Y.	do	11	Arizona and California.
Tanne-Arden, Inc., New York, N.Y.	do	36	Arizona, California, Colorado, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Texas, Utah, and Washington.
Sumner Stores Corp., New York, N.Y.	do	33	Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, South Carolina, Texas, Tennessee, and Virginia.
Morrison Stores Corp., New York, N.Y.	Clothing and furnishings	12	Connecticut, Delaware, Indiana, and Michigan.
Eleanor Shops, Inc., New York, N.Y.	do	40	Alabama, Mississippi, North Carolina, Pennsylvania, South Carolina, Virginia, and Georgia.
Montaldo's, New York, N.Y.	do	11	Arkansas, Colorado, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, and Virginia.
Ellay Stores, Inc., New York, N.Y.	do	43	Indiana, North Carolina, Ohio, Pennsylvania, Texas, West Virginia, New Jersey, and Illinois.
M & W Martin Co., Inc., New York, N.Y.	do	16	Georgia, Iowa, Kansas, Minnesota, Montana, and North Carolina.
Krasner Bros., Inc., New York, N.Y.	do	26	Kentucky, Maryland, Missouri, Tennessee, and West Virginia.
Lady Oris Hosiery Shops, New York, N.Y.	do	11	Illinois, Kentucky, Louisiana, Tennessee, and Texas.
Lorrains Smart Shops, Inc., New York, N.Y.	do	16	Massachusetts, New Jersey, and Pennsylvania.
Cosmo Hosiery Shops, New York, N.Y.	do	7	Connecticut and New Jersey.
Linpark Clothing Corp., New York, N.Y.	do	12	Iowa, Minnesota, Nebraska, South Dakota, and Wisconsin.
Irving O. Livingston, Inc., New York, N.Y.	do	16	Delaware, Illinois, and Indiana.
Joanly Shops, Inc., New York, N.Y.	do	21	North Carolina, Pennsylvania, and South Carolina.
National Bellas Hess Stores, Inc., New York, N.Y.	do	45	Michigan, Minnesota, Missouri, North Carolina, South Carolina, and Puerto Rico.
Joy Stores, Inc., New York, N.Y.	do	18	Indiana, Kentucky, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, and Wisconsin.
Broadstreet's, Inc., New York, N.Y.	do	12	Illinois, New Jersey, Pennsylvania, and West Virginia.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

[The firms are listed by State and because they are included in every State in which they operate stores, necessarily the same firm may be listed in several States]

NEW YORK—Continued

Company	Category	Number of stores	Other States of operation
Morton's, New York, N.Y.	Clothing and furnishings	5	District of Columbia, Maryland, and Virginia.
Lady Rose Stores, Inc., New York, N.Y.	do	15	New Jersey.
Hofstadter & Albert Millinery Corp., New York, N.Y.	do	7	District of Columbia, Maryland, Ohio, Pennsylvania, and Virginia.
S. L. Hirsch Stores, Inc., New York, N.Y.	do	20	New Jersey.
Bonwit Teller, New York, N.Y.	do	8	Florida, Illinois, Massachusetts, and Ohio.
Best & Co., Inc., New York, N.Y.	do	19	Connecticut, District of Columbia, Massachusetts, Michigan, New Jersey, Ohio, Pennsylvania, and Virginia.
Blackton 5th Avenue, Ltd., New York, N.Y.	do	10	Florida.
Benhill Shirt Shops, Inc., New York, N.Y.	do	24	Florida and Puerto Rico.
Felsway Shoe Corp., New York, N.Y.	Shoes	37	Delaware, District of Columbia, Kentucky, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, and South Carolina.
Norstan Apparel Shop, Inc., New York, N.Y.	Clothing and furnishings	10	Ohio and Pennsylvania.
Jubilee Shops, Inc., New York, N.Y.	do	15	Indiana, Kansas, Maryland, New Jersey, Ohio, Pennsylvania, Texas, and Virginia.
Kamber Co., Inc., New York, N.Y.	do	8	Illinois, Indiana, Maine, Michigan, and Missouri.
Jane Lee Stores, Inc., New York, N.Y.	do	38	Connecticut, Illinois, Indiana, Kansas, and Kentucky.
Cardinal Neckwear, Inc., New York, N.Y.	do	16	District of Columbia, Florida, Illinois, Massachusetts, and New Jersey.
Lewis Apparel Stores, Inc., New York, N.Y.	do	35	Connecticut, Kansas, Massachusetts, Michigan, North Carolina, Ohio, and Oklahoma.
Browning Fifth Avenue, New York, N.Y.	do	6	New Jersey.
Brooks Fashion Stores, Inc., New York, N.Y.	do	18	Illinois, Ohio, and Wisconsin.
Miss New York Frocks, Inc., New York, New York	do	5	Massachusetts and Vermont.
Millinery Stores, New York, N.Y.	do	27	Connecticut, Washington, District of Columbia, Illinois, Indiana, Minnesota, Ohio, Tennessee, and Texas.
Parkfield Shops, Inc., New York, N.Y.	do	10	Connecticut, Ohio, and Pennsylvania.
Plymouth Shops, Inc., New York, N.Y.	do	18	New York.
P & Q Shops Inc., New York, N.Y.	do	9	Connecticut, Massachusetts, New Hampshire, and Rhode Island.
Orva Hosiery, New York, N.Y.	do	8	Michigan and Ohio.
Brooks Brothers Clothing, New York, N.Y.	do	7	California, Illinois, and Massachusetts.
Milmar Shops, Inc., New York, N.Y.	do	12	New Jersey.
Jean Frocks, Inc., New York, N.Y.	do	39	Ohio and Pennsylvania.
Jarold Shops, Inc., New York, N.Y.	do	19	Nebraska, Kansas, Oklahoma, and South Dakota.
Maternally Yours, Inc., New York, N.Y.	do	10	New Jersey.
Midtown Millinery Shops, Inc., New York, N.Y.	do	15	Do.
The Ormond Shops, Inc., New York, N.Y.	do	34	Maryland, New Jersey, Pennsylvania, and West Virginia.
Dundee Smart Clothes, Inc., New York, N.Y.	do	15	California, Pennsylvania, Texas, Utah, and Washington.
Druss Stores, New York, N.Y.	do	6	Connecticut, New Hampshire, and New Jersey.
David's Specialty Shops, Inc., New York, N.Y.	do	15	District of Columbia, Ohio, and Virginia.
Tanen Shoe Co., Lynn, Mass.	Shoes	6	Connecticut and Massachusetts.
Morton's Shoe Stores, Inc., Boston, Mass.	do	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Perry's Shoes, Fort Plain, N.Y.	do	14	Connecticut and New Jersey.
Shelbro, Inc., Mount Vernon, N.Y.	do	5	Connecticut, Rhode Island, and Virginia.
I. Miller Salons, New York, N.Y.	do	14	District of Columbia, Florida, Illinois, Maryland, New Jersey, and Pennsylvania.
Kitty Kelly Shoe Corp., New York, N.Y.	do	39	Florida, Illinois, Kentucky, Maryland, Michigan, New Jersey, Ohio, and Pennsylvania.
Lloyd & Haig Shoe Corp., New York, N.Y.	do	7	Illinois and Pennsylvania.
London Character Shoes, New York, N.Y.	do	29	Connecticut and New Jersey.
Morse Shoe Store Corp., Boston, Mass.	do	38	Massachusetts and New Hampshire.
French, Shriner & Urner, Boston, Mass.	do	17	California, Massachusetts, Minnesota, Ohio, and Pennsylvania.
Adler Sons Shoe Corp., New York, N.Y.	do	24	New Jersey.
Geo. E. Keith Co., Brockton, Mass.	do	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, Ohio, Pennsylvania, Tennessee, Texas, and Utah.
Comfort Coal-Lumber Co., Hackensack, N.J.	Hardware	5	New Jersey.
County Hardware Corp., Mount Vernon, N.Y.	do	7	Connecticut.
Kemp Lumber Co., Roswell, N. Mex.	do	7	Texas.
Whipple Bros., Inc., Pennsylvania	do	7	Pennsylvania.
Zukor's, New York, N.Y.	Clothing and furnishings	16	California, Oregon, and Washington.
Wilnat Stores, New York, N.Y.	do	22	Alabama, Arizona, Florida, Louisiana, and North Dakota.
Woodrow Stores, Inc., New York, N.Y.	do	15	Ohio.
Mutual Clothing Co., Inc., Rochester, N.Y.	do	5	Connecticut and Massachusetts.
Unger's Hosiery & Frocks, Inc., New York, N.Y.	do	11	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Virginia Darc Stores, Corp., New York, N.Y.	do	46	Illinois, Indiana, Michigan, and Ohio.
Vai-U-Dress Shops, Inc., New York, N.Y.	do	42	Alabama, Arkansas, Colorado, District of Columbia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, and Georgia.
Wormser Hat Stores, Inc., New York, N.Y.	do	42	Delaware, New Jersey, and Pennsylvania.
Williams Retail Stores, Inc., New York, N.Y.	do	7	Florida, Michigan, and New York.
Whitehouse & Hardy, New York, N.Y.	do	8	Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia.
Wilbur-Rogers, Inc., New York, N.Y.	do	38	New Jersey.
Wallachs, Inc., New York, N.Y.	do	13	New Jersey.
Weber & Heilbronner, New York, N.Y.	do	12	New Jersey.
Weiss Bros. Stores, Inc., New York, N.Y.	do	19	Alabama, Georgia, Indiana, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.
Epko Shoes, Inc., Toledo, Ohio	Shoes	26	Indiana, Michigan, and Ohio.
Brown's Boot Shops, Inc., DuBois, Pa.	do	24	Pennsylvania.
Thrifty Shoe Stores, Inc., Wilkes-Barre, Pa.	do	24	Maryland and Pennsylvania.
Kay's-Newport, Inc., Providence, R.I.	do	21	Massachusetts, Connecticut, and Rhode Island.
Foam Ruhher Center, Passaic, N.J.	Furniture	10	New Jersey and Pennsylvania.
Nettleton Shops, Inc., New York, N.Y.	Shoes	45	All States.
Laundercenter Corp., Woodside, N.Y.	Drycleaning	13	Connecticut, Massachusetts, and New Jersey.
Johnny-on-the-Spot, Scarsdale, N.Y.	do	15	Connecticut.
Tanen Shoe Co., Lynn, Mass.	Shoes	6	Connecticut and Massachusetts.
Pediforme Shoe Co., Inc., New York, N.Y.	do	7	New Jersey.
I. Simon Co., Inc., New York, N.Y.	do	27	New Jersey and Pennsylvania.
The Tash Shoe Co., Hamilton, Ohio	do	6	Indiana and Ohio.
J & J Slater, New York, N.Y.	do	8	California, District of Columbia, Illinois, and New Jersey.
Stuart Brooks, Inc., New York, N.Y.	do	11	New Jersey.
Wise Shoe Stores, Inc., New York, N.Y.	do	17	Do.
Morton's Shoe Stores, Inc., Boston, Mass.	do	15	Massachusetts, Connecticut, Georgia, Louisiana, New Hampshire, Michigan, North Carolina, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Morse Shoe Store Corp., Boston, Mass.	do	38	Massachusetts and New Hampshire.
French, Shriner & Urner, Boston, Mass.	do	17	Massachusetts, California, Minnesota, Ohio, and Pennsylvania.
Allied Shoe Co., Boston, Mass.	do	33	Massachusetts, Connecticut, Maine, Maryland, New Hampshire, Pennsylvania, New Jersey, and Rhode Island.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

[The firms are listed by State and because they are included in every State in which they operate stores, necessarily the same firm may be listed in several States]

NEW YORK—Continued

Company	Category	Number of stores	Other States of operation
S. E. Nichols Co., New York, N.Y.	Variety	10	New Jersey.
Lyon & Healy, Inc. (musical merchandise), Chicago, Ill.	Miscellaneous	11	California, Illinois, Indiana, and Ohio.
Tho Wurlitzer Co., (musical instruments), Chicago, Ill.	do	6	Illinois, Michigan, Ohio, and Pennsylvania.
Ritz Camera Centers, Washington, D.C.	do	7	District of Columbia, Maryland, and Pennsylvania.
Union-Fern, Inc., Troy, N.Y.	Furniture	12	Massachusetts and Vermont.
Lerner Sicep Products, Richmond Hill, N.Y.	do	30	New Jersey.
M. N. Landau Stores, Inc., New York, N.Y.	Variety	20	Connecticut, Indiana, Massachusetts, Michigan, New Hampshire, New Jersey, North Carolina, and Texas.
Abelson's, Inc., Newark, N.J.	Jewelry	14	New Jersey.
S. A. Meyer Co., Washington, Pa.	do	15	Pennsylvania, Ohio, Maryland, and West Virginia.
Rudolph Bros., Inc., Syracuse, N.Y.	do	48	Illinois, Massachusetts, and New Jersey.
Tappin's, Inc., Newark, N.J.	do	18	New Jersey and Pennsylvania.
M. H. Fishman Co., Inc., New York, N.Y.	Variety	47	Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Ohio, Pennsylvania, Vermont, and Virginia.
Charles Stores Co., Inc., New York, N.Y.	do	32	Kentucky, North Carolina, Pennsylvania, Tennessee, and Virginia.
Fisher-Beer Co., New York, N.Y.	do	10	New Jersey.
M. H. Lamston, Inc., New York, N.Y.	do	17	Connecticut and New Jersey.
J. C. Kelso Stores, Erie, Pa.	do	5	Pennsylvania.
Central Markets, Inc., Schenectady, N.Y.	Food	20	Massachusetts.
The Mohican Stores, New York, N.Y.	do	14	Pennsylvania.
The Giant Markets, Scranton, Pa.	do	11	Do.
F. C. Thomas, Inc., Olean, N.Y.	do	33	Do.
National Market Co., Buffalo, N.Y.	do	20	Do.
Quality Markets, Inc., Jamestown, N.Y.	do	42	Do.
Merit Farms, Inc., New York, N.Y.	do	35	New Jersey.
Rockover Bros., Inc., Philadelphia, Pa.	Clothing and furnishings	25	Delaware, New Jersey, Pennsylvania, and Virginia.
Ward & Ward, Inc., Philadelphia, Pa.	do	17	New Jersey and Pennsylvania.
John Mullins & Sons, Inc., Brooklyn, N.Y.	Furniture	17	Florida, Mississippi, and South Carolina.
Welmar, Inc., New York, N.Y.	do	5	Arizona, North Carolina, Oklahoma, and Pennsylvania.
Castro Convertible Corp., New Hyde Park, N.Y.	do	47	Connecticut, Florida, Maryland, Michigan, New Jersey, Pennsylvania, District of Columbia, and Rhode Island.
Smilow Thiele Corp., New York, N.Y.	do	5	New Jersey.
Mallory, Inc., New Rochelle, N.Y.	do	5	Do.
Sachs Quality Stores, Inc., New York, N.Y.	do	10	Do.
W. & J. Sloane, Inc., New York, N.Y.	do	11	California, Connecticut, District of Columbia, and New Jersey.
Two Guys From Harrison, Garfield, N.Y.	Discount	17	Maryland, New Jersey, and Pennsylvania.
Masters, Inc., Flushing, N.Y.	do	10	Florida, New Jersey, and Pennsylvania.
Arlan's Department Stores, Inc., New Bedford, N.Y.	do	11	Connecticut, Kentucky, Massachusetts, Michigan, and Ohio.
Max Dichter, Inc., Jamaica Plain, N.Y.	do	5	Massachusetts, New Jersey, Ohio, and Vermont.
Honey Dew Food Stores, Inc., Teaneck, N.J.	Food	9	New Jersey and Connecticut.
Kings Supermarkets, Inc., Irvington, N.J.	do	12	New Jersey and Pennsylvania.
Camera Craft, Inc., New Rochelle, N.Y.	Miscellaneous	18	Connecticut.
Brentano's, Inc. (books), New York, N.Y.	do	13	District of Columbia, Maryland, New Jersey, and Virginia.
Allen Carpet Shops, Inc., Jamaica, N.Y.	do	11	New Jersey.
Raphan Carpet Corp., Franklin Sq., N.Y.	do	15	Connecticut and New Jersey.
Churchill Custom Hi-Fidelity, Ltd., Brooklyn, N.Y.	do	7	New Jersey.
Trader Horn Appliance Stores, Hasbrouck Heights, N.Y.	do	8	Do.
Kaufman Carpet Co., Inc., New York, N.Y.	do	11	Do.
National Army Stores Corp., Plattsburg, N.Y.	do	19	Vermont.
Tires, Inc., New York, N.Y.	do	8	New Jersey.
Goubaud de Paris, Inc., New York, N.Y.	do	28	California, Connecticut, Washington, D.C., Florida, New Jersey, Pennsylvania, and Canada.
Doubleday Book Shops, New York, N.Y.	do	32	Illinois, Maryland, and Massachusetts.
Devega Stores Corp., New York, N.Y.	do	28	New Jersey.
Peper Bros., Inc., Richmond Hill, N.Y.	do	10	Do.
Adams Drug Co., Inc., Pawtucket, R.I.	Drugs	20	New Hampshire and Rhode Island.
Sav-On Drugs, Inc., Plainsfield, N.Y.	Drugstore	7	New Jersey.
Mack Drug Co., Hackensack, N.Y.	do	15	New Jersey and Massachusetts.

NORTH CAROLINA

Adeline Apparel Shops, Inc., New York, N.Y.	Clothing and furnishings	49	New York, Ohio, Tennessee, Pennsylvania, Virginia, New Jersey, Arkansas, Illinois, and Indiana.
Good-Val Stores Corp., New York, N.Y.	do	26	Florida, Georgia, Massachusetts, New York, New Hampshire, Pennsylvania, South Carolina, and Virginia.
Kenwin Shops, Inc., New York, N.Y.	do	20	Alabama, Georgia, and South Carolina.
My Shop, Inc., New York, N.Y.	do	41	Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
O.P.O. Clothes, New York, N.Y.	do	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Cranes-Mayos Clothes, Inc., New York, N.Y.	do	40	Delaware, Georgia, Illinois, Indiana, New York, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
Felsway Shoe Corp., New York, N.Y.	Shoes	37	Delaware, District of Columbia, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, and South Carolina.
Eleanor Shops, Inc., New York, N.Y.	Clothing and furnishings	40	Alabama, Georgia, Mississippi, Pennsylvania, South Carolina, and Virginia.
Ellay Stores, Inc., New York, N.Y.	do	43	Illinois, Indiana, Ohio, Pennsylvania, Texas, West Virginia, and New Jersey.
Montaldo's, New York, N.Y.	do	11	Arkansas, Colorado, Missouri, New Jersey, Ohio, Oklahoma, and Virginia.
Joy Stores, Inc., New York, N.Y.	do	18	Indiana, Kentucky, New Jersey, Ohio, Pennsylvania, Virginia, West Virginia, and Wisconsin.
Joanly Shops, Inc., New York, N.Y.	do	21	New York, Pennsylvania, and South Carolina.
National Bellas Hess Stores, Inc., New York, N.Y.	do	45	Michigan, Minnesota, Missouri, South Carolina, and Puerto Rico.
M&W Martin Co., Inc., New York, N.Y.	do	16	Georgia, Iowa, Kansas, Minnesota, and Montana.
Lewis Apparel Stores, Inc., New York, N.Y.	do	15	Connecticut, Kansas, Massachusetts, Michigan, New York, Ohio, and Oklahoma.
Bomar Shoe Co., Atlanta, Ga.	Shoes	8	Georgia and South Carolina.
Morton's Shoe Stores, Inc., Boston, Mass.	do	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, Pennsylvania, Rhode Island, Texas, Vermont, and Virginia.
Sullivan Hardware Co., Anderson, S.C.	Hardware	6	South Carolina.
Maxwell Bros., Inc., Augusta, Ga.	Furniture	34	Georgia and South Carolina.
Haverty Furniture Co., Atlanta, Ga.	do	28	Alabama, Arkansas, Florida, Georgia, Louisiana, South Carolina, Tennessee, Texas, and Virginia.
C. H. Larkins Clothing Stores, Inc., Kinston, N.C.	Clothing and furnishings	17	South Carolina.
Cato Stores, Inc., Charlotte, N.C.	do	50	South Carolina and Virginia.
National Manufacturing & Stores Corp., Atlanta, Ga.	Furniture	40	Alabama, Georgia, South Carolina, Louisiana, Tennessee, and Texas.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

[The firms are listed by State and because they are included in every State in which they operate stores, necessarily the same firm may be listed in several States]

NORTH CAROLINA—Continued

Company	Category	Number of stores	Other States of operation
Virginia Dare Stores Corp., New York, N.Y.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Wilbur-Rogers, Inc., New York, N.Y.	do	38	Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Virginia.
H. B. Phillips, Inc., Orangeburg, S.C.	Shoes	26	Florida and South Carolina.
Barr Bros, Inc., Norfolk, Va.	Jewelry	17	Virginia.
W. M. Wall Jewelers, Elkin, N.C.	do	5	Do.
M. N. Lundau Stores, Inc., New York, N.Y.	Variety	20	New York, Connecticut, Indiana, Massachusetts, Michigan, New Hampshire, Texas, and New Jersey.
Crest Stores Co., Charlotte, N.C.	do	13	North Carolina, South Carolina, and Virginia.
P & N 5¢-10¢ Stores, Inc., Kernersville, N.C.	do	5	Virginia.
Fine's Men's Shops, Inc., Norfolk, Va.	Clothing and furnishings	7	Do.
Wetmar, Inc., New York, N.Y.	Furniture	8	Arizona, New York, Pennsylvania, and Oklahoma.
Wood's 5¢-10¢ Stores, Inc., Rockingham, N.C.	Variety	19	South Carolina.
Mack's 5¢-10¢ Stores, Inc., Sanford, N.C.	do	31	Georgia, South Carolina, and Virginia.
Stovall's 5¢-10¢ Stores, Waynesville, N.C.	do	5	Georgia.
Sterehi Bros. Stores, Inc., Knoxville, Tenn.	Furniture	44	Tennessee, Alabama, Florida, Georgia, Kentucky, and South Carolina.
Kimbrell's, Inc., Charlotte, N.C.	do	25	South Carolina.
Munford Do-It-Yourself Stores, Inc., Atlanta, Ga.	Miscellaneous	43	Alabama, Florida, Georgia, South Carolina, Tennessee, and Virginia.
Charles Stores Co., Inc., New York	Variety	32	New York, Kentucky, Pennsylvania, Tennessee, and Virginia.
Piggly Wiggly Wholesale, Inc., Charleston Heights, S.C.	Food	48	South Carolina.
Lay & Co., Inc., Cleveland, Tenn.	Variety	18	Georgia and Alabama.
W. V. Ramsey Co., Mountain City, Tenn.	do	5	South Carolina, Virginia, and Tennessee.
The E. I. Lewis Co., Spartanburg, S.C.	do	9	South Carolina.
Cassels United Stores, Inc., Easley, S.C.	do	17	Georgia, and South Carolina.
Bower's Stores, Asheville, N.C.	Discount stores	12	Georgia, Kentucky, and Tennessee.
Patterson Drug Co., Lynchburg, Va.	Drugstore	11	Virginia.
Hofheimer's, Inc., Norfolk, Va.	Shoes	20	Do.
Olan Mills, Inc., Chattanooga, Tenn.	Miscellaneous	35	Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina, Tennessee, and Virginia.
Hale Drug Co., Nashville, Tenn.	Drug	14	Alabama, Arkansas, Georgia, Mississippi, and Tennessee.
City Drug Co., Marysville, Tenn.	do	5	Tennessee.
Silco Cut Price Stores, Inc., Philadelphia, Pa.	do	50	Delaware, Maryland, New Jersey, Pennsylvania, Virginia, and West Virginia.
Baxter Stores, Inc., Trenton, N.J.	Clothing and furnishings	25	Pennsylvania, South Carolina, Tennessee, New Jersey, Alabama, Florida, Georgia, and New York.
Webster Clothes, Inc., Baltimore, Md.	do	19	District of Columbia, Indiana, Kentucky, Maryland, New Jersey, Ohio, Virginia, and West Virginia.
Advance Stores Co., Roanoke, Va.	Auto supply	46	South Carolina, Tennessee, and Virginia.
Free Service Tire Stores, Inc., Johnson City, Tenn.	do	11	Tennessee.
Kenwin Shops, Waycross, Ga.	Clothing and furnishings	18	Alabama, Georgia, and South Carolina.

NORTH DAKOTA

Woodrow Stores, Inc., New York 10, N.Y.	Clothing and furnishings	15	Alabama, Arizona, Florida, Louisiana, and New York
Lindrud's 5¢-10¢ Stores, Madison, Minn.	Variety	15	South Dakota and Minnesota.
Piggly Wiggly Northland Co., Fargo, N. Dak.	Food	8	Minnesota.
Mathisen Tire Co., Duluth, Minn.	Miscellaneous	7	Minnesota, Michigan, and Wisconsin.
Great Minneapolis Surplus Stores, Minneapolis, Minn.	Discount stores	6	Iowa and Minnesota.
F. T. Reynolds Co., Glendive, Mont.	Food	8	Montana.
White Drug Co., Jamestown	Drugstore	11	South Dakota.
Associated Drugs, Inc., Bemidji	do	8	Minnesota.
Oseo Drug Co., Chicago, Ill.	do	30	Illinois, Indiana, Iowa, Minnesota, and Wisconsin.
Brown's Shoe Fit Co., Shenandoah, Iowa	Shoes	40	Colorado, Iowa, Kansas, Missouri, and Nebraska.
Buttrely Stores, Inc., Minneapolis, Minn.	Clothing and furnishings	23	Iowa, Minnesota, South Dakota, and Wisconsin.
American Shoe Co., Inc., St. Louis, Mo.	Shoes	29	Indiana, Kentucky, Missouri, and Tennessee.
Scheel's Hardware, Fargo, N. Dak.	Hardware	8	Minnesota and Montana.

OHIO

Adeline Apparel Shops, Inc., New York, N.Y.	Clothing and furnishings	49	Also operates in New York, Ohio, Tennessee, Pennsylvania, Virginia, New Jersey, Arkansas, Illinois, Indiana, and North Carolina.
Arlene Shops, Inc., New York, N.Y.	do	8	Also operates in New York, Pennsylvania, and West Virginia.
Puritan Federal Clothing Stores, Inc., New York	do	46	Also operates in Connecticut, Illinois, Indiana, New Hampshire, Maine, Massachusetts, Michigan, Pennsylvania, and Vermont.
Retail Jenny Shops, Inc., New York	do	20	Also operates in Indiana, Pennsylvania and West Virginia.
My Shop, Inc., New York	do	41	Also operates in Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin.
The Custom Shops, New York, N.Y.	do	26	California, District of Columbia, Illinois, Maryland, Michigan, Minnesota, New Jersey, New York, and Pennsylvania.
King Clothing Co., Inc., New York	do	18	Indiana, Michigan, and Texas.
Best & Co., Inc., New York, N.Y.	do	19	Connecticut, District of Columbia, Massachusetts, Michigan, New Jersey, New York, Pennsylvania, and Virginia.
Beverly Shops, New York, N.Y.	do	7	Kentucky and West Virginia.
Montaldo's New York	do	11	Arkansas, Colorado, Missouri, New Jersey, North Carolina, Oklahoma, and Virginia.
Ellay Stores, Inc., New York, N.Y.	do	43	Illinois, Indiana, North Carolina, Pennsylvania, Texas, West Virginia, New Jersey, and New York.
Norstan Apparel Shop, Inc., New York	do	10	Pennsylvania and New York.
Joy Stores, Inc., New York	do	18	Indiana, Kentucky, New Jersey, North Carolina, Pennsylvania, Virginia, West Virginia, Wisconsin, and New York.
Collins Stores, Inc., New York, N.Y.	do	24	Kentucky, Pennsylvania, Tennessee, and West Virginia.
Consolidated Retail Stores, Inc., New York, N.Y.	do	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Oklahoma, Pennsylvania, Tennessee, and Texas.
Hofstadter & Albert Millinery Corp., New York	do	7	District of Columbia, Maryland, Pennsylvania, and Virginia.
Bouwit Teller, New York, N.Y.	do	8	Florida, Illinois, Massachusetts, and New York.
Jubille Shops, Inc., New York	do	15	New York, Indiana, Kansas, Maryland, New Jersey, Pennsylvania, Texas, and Virginia.
Felsway Shoe Corp, New York, N.Y.	Shoes	37	Delaware, District of Columbia, Kentucky, Maryland, New Jersey, New York, North Carolina, Pennsylvania, and South Carolina.
Millinery Stores, New York	Clothing and furnishings	27	Connecticut, District of Columbia, Illinois, Indiana, Minnesota, Tennessee, and Texas.
Lewis Apparel Stores, Inc., New York	do	35	Connecticut, Kansas, Massachusetts, Michigan, New York, North Carolina, and Oklahoma.

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OHIO—Continued

Company	Category	Number of stores	Other States of operation
Brooks Fashion Stores, Inc., New York, N.Y.	Clothing and furnishings	18	Illinois, New York, and Wisconsin.
Parkfield Shops, Inc., New York	do	10	Connecticut and Pennsylvania.
Orva Hosiery, New York	do	8	Michigan.
Jean Frocks, Inc., New York	do	39	Pennsylvania.
David's Specialty Shops, Inc., New York, N.Y.	do	15	District of Columbia, New York, and Virginia.
Kitty Kelly Shoe Corp., New York, N.Y.	Shoes	39	Florida, Illinois, Kentucky, Maryland, Michigan, New Jersey, New York, and Pennsylvania.
Lockett Shoe Co., Inc., Chicago, Ill.	do	7	Indiana and Kentucky.
Maling Shoes, Chicago, Ill.	do	31	Indiana, Illinois, Michigan, and Wisconsin.
Crown Self-Service Shoe Stores, Inc., Chicago, Ill.	do	38	Do.
French, Shriner & Urner Boston, Mass.	do	17	California, Massachusetts, Minnesota, New York, and Pennsylvania.
Carolina Lumber Co., Huntington, W. Va.	Hardware	6	Kentucky and West Virginia.
Scott Lumber Co., Bridgeport, Ohio	do	9	West Virginia.
The Stambaugh-Thompson Co., Youngstown, Ohio	do	12	Pennsylvania.
Holthouse Furniture Co. Inc., Richmond, Ind.	Furniture	10	Indiana.
Banner-Whitehill Corp. Indianapolis, Ind.	do	7	Do.
L. Fish Furniture Co., Chicago, Ill.	do	11	Indiana, Illinois, Wisconsin.
Grinnell Bros., Detroit, Mich.	do	29	Michigan, and Ontario, Canada.
Eckerly Millinery, Dayton, Ohio	Clothing and furnishings	5	West Virginia.
E. P. Roo Stores, Cleveland, Ohio	do	14	Illinois, Indiana, Iowa, Michigan, and Pennsylvania.
Nadler's, Inc., Cincinnati, Ohio	do	5	Kentucky.
Mutual Clothing Co., Inc., Rochester, N.Y.	do	5	New York.
Virginia Dare Stores, Corp., New York, N.Y.	do	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Wormser Hat Stores, Inc., New York, N.Y.	do	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Oklahoma, Tennessee, and Texas.
Val-U-Dress Shops, Inc., New York, N.Y.	do	42	Illinois, Indiana, and Michigan.
Wilbur-Rogers, Inc., New York, N.Y.	do	38	Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Pennsylvania, and Virginia.
Hoosier Markets, Inc., Anderson, Ind.	Food supply	10	Indiana.
E. G. Shluner & Co., Inc., Chicago, Ill.	do	47	Illinois, Iowa, Michigan, Wisconsin, and Pennsylvania.
Buckeye Shoe Co., Akron	Shoes	6	Michigan.
The Art Dry Cleaning Co., Cincinnati, Ohio	Drycleaning	10	Kentucky.
The Model Laundry & Dry Cleaning Co., Cincinnati, Ohio	do	16	Kentucky and Indiana.
Gilbert Shoe Co., Columbus, Ohio	Shoes	8	Indiana.
Cort Shoes, Inc., Cleveland, Ohio	do	32	Michigan.
Jack's Shoes, Inc., Columbus, Ohio	do	11	Indiana.
The Krohngold Shoe Co., Cleveland, Ohio	do	20	Michigan and Illinois.
The Tash Shoe Co., Hamilton, Ohio	do	6	Indiana and New York.
Epko Shoes, Inc., Toledo, Ohio	do	26	Indiana, Michigan, and New York.
Taggart Shoes, Inc., Portsmouth, Ohio	do	10	Kentucky and West Virginia.
Fame Laundries, Inc., Indianapolis, Ind.	Drycleaning	22	Indiana, Kentucky, and Pennsylvania.
Page Co., Inc., Dallas, Tex.	Clothing and furnishings	9	California, Michigan, and Texas.
Scott's Stores, Cincinnati	Variety	6	Indiana and Kentucky.
Hart Stores, Inc., Columbus	do	8	Do.
Nichols 5¢-\$1.00 Stores, Inc., Hubbard, Ohio	do	10	Pennsylvania.
French Shriner & Urner, Boston, Mass.	Shoes	17	Massachusetts, California, Minnesota, and Pennsylvania.
Lyon & Healy, Inc. (musical merchandise), Chicago, Ill.	Miscellaneous stores	11	California, Illinois, Indiana, and New York.
The Wurlitzer Co. (musical instruments), Chicago, Ill.	do	6	Illinois, Michigan, New York, and Pennsylvania.
Harmeyer's Paint & Wallpaper, Newport, Ky.	do	11	Kentucky.
Rogers Toy Shops, Inc., Washington, D.C.	Miscellaneous	18	District of Columbia, Tennessee, Florida, Alabama, Maryland, Georgia, Pennsylvania, and Virginia.
Lewis Furniture Co., Huntington, W. Va.	Furniture	5	West Virginia.
Bloch Daneman Co., Milwaukee, Wis.	do	10	Wisconsin, Maryland, Michigan, and Pennsylvania.
S. A. Meyer Co., Washington, Pa.	Jewelry	15	Pennsylvania, New York, Maryland, and West Virginia.
The Barr Co., Celina	Variety	5	Indiana.
M. H. Fishman Co., Inc., New York	do	47	New York, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Vermont, and Virginia.
Belmont 5¢-\$1.00 Stores, Fort Wayne, Ind.	do	6	Michigan, and Indiana.
Hafner's 5¢-\$1.00 Stores, Inc., Garrett, Ind.	do	40	Indiana, Illinois, and Michigan.
W. R. Thomas 5¢-\$1.00 Stores, Inc., Warsaw, Ind.	do	9	Indiana, and Michigan.
McCord 5¢-\$1.00 Stores, Redkey, Ind.	do	5	Indiana.
Paul's 5¢-\$1.00 Stores, Inc., Ottawa	do	5	Do.
Big Bear Stores Co., Columbus, Ohio	Food	31	West Virginia.
Equity Dairy Stores, Inc., Lima, Ohio	do	9	Indiana.
Evans Grocery Co., Gallipolis, Ohio	do	13	West Virginia.
McAllister Dairy Farms, Inc., West Warren, Ohio	do	30	Pennsylvania.
Century Food Markets Co., Youngstown, Ohio	do	40	Do.
Hart Stores, Inc., Columbus, Ohio	Drugs	8	Kentucky and Indiana.
Pennshire Clothes, Inc., Philipsburg, Pa.	Clothing and furnishings	18	Pennsylvania.
Fashion Hosiery Stores, Inc., Pittsburgh, Pa.	do	32	Pennsylvania and West Virginia.
Max Dichter, Inc., Jamaica Plain	Discount stores	5	Massachusetts, New Jersey, New York, and Vermont.
Barlo Company, Inc., Cincinnati	do	6	Kentucky.
Arlan's Department Stores, Inc., New Bedford	do	11	Connecticut, Kentucky, Massachusetts, Michigan and New York.
Hoge-Davis Drug Co., Wheeling, W. Va.	Drugstores	6	West Virginia.
Miller Bros. Wallpaper Co., Cincinnati	Miscellaneous	6	Kentucky.
Majestic Paint Centers, Inc., Columbus	do	16	West Virginia.
Joe O. Frank Co., Dayton	do	16	Indiana.
Peck Drug Stores, Inc., Grand Rapids	Drugstore	18	Michigan.
The Muir Drug Co., Grand Rapids	do	28	Michigan, Wisconsin, and Indiana.
Miltou F. Kreis Drug Stores, Beverly Hills	Drugstores	5	California.
Michaels & Mann, Inc., Kalamazoo, Mich.	Clothing and furnishings	10	Illinois, Indiana, Kentucky, and Michigan.
Jerrold's, Saginaw, Mich.	do	10	Michigan and Wisconsin.
Abrahams Bros.	do	12	Illinois, Indiana, and Iowa.
The Printz Co., Inc., Jamestown, N.Y.	do	8	New York and Pennsylvania.
My Maternity Shop, Inc., Buffalo, N.Y.	do	45	Connecticut, New York, Pennsylvania, West Virginia, and Ontario and Quebec, Canada.
Jack Stevens Clothes, Detroit, Mich.	do	7	Maryland, Massachusetts, Michigan, and Minnesota.
Tall Girl's Shops, Detroit, Mich.	do	6	Illinois, Michigan, and New York.
United Shirt Distributors, Inc., Detroit, Mich.	do	39	Florida, Michigan, and New York.
Winkelman Bros., Inc., Detroit, Mich.	do	42	Michigan.
Webster Clothes, Inc., Baltimore, Md.	do	19	District of Columbia, Indiana, Kentucky, Maryland, New Jersey, North Carolina, Virginia, and West Virginia.
Van's Hosiery Stores, Inc., Roxbury, Mass.	do	23	Massachusetts and Pennsylvania.
Stevens Candy Kitchens, Inc., Chicago, Ill.	Candy stores	35	Illinois and Indiana.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

[The firms are listed by State and because they are included in every State in which they operate stores, necessarily the same firm may be listed in several States]

OHIO—Continued

Company	Category	Number of stores	Other States of operation
Karnes Bake Shops, Inc., Pittsburgh, Pa.	Bakery stores	12	Pennsylvania.
Standard Auto & Radio Supply Co., Pittsburgh, Pa.	Auto supply	13	Pennsylvania and West Virginia.
II&W Auto Accessories Co., Toledo	do	11	Michigan.
Flemming & Flower, Marietta	do	5	West Virginia.
The Abel Corp., Columbus	do	36	District of Columbia, Iowa, Indiana, Maryland, Michigan, Pennsylvania, Texas, and West Virginia.
Leo's Inc., Cincinnati	do	18	Kentucky.
Equitable Millinery, Chicago, Ill.	Clothing and furnishings	25	Illinois, Indiana, Iowa, Kentucky, Michigan, and Wisconsin.
Checker Stores, Cincinnati, Ohio	Auto supply	15	Kentucky.

OKLAHOMA

Tanne-Arden, Inc., New York, N.Y.	Clothing	36	Arizona, California, Colorado, Kentucky, Massachusetts, Nevada, Oregon, Texas, Utah, Washington, New York, and Michigan.
Montaldo's, New York	Clothing and furnishings	11	Arkansas, Colorado, Missouri, New Jersey, North Carolina, Ohio, and Virginia.
Consolidated Retail Stores, Inc., New York, N.Y.	do	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Pennsylvania, Tennessee, and Texas.
Jaroid Shops, Inc., New York	do	19	Nebraska, Kansas, and South Dakota.
Lewis Apparel Stores, Inc., New York	do	35	Connecticut, Kansas, Massachusetts, Michigan, New York, North Carolina, and Ohio.
Midland Shoe Co., St. Louis, Mo.	Shoes	38	Alabama, Arkansas, Indiana, Iowa, Louisiana, Michigan, Missouri, Texas, Wisconsin, and Mississippi.
Wm. Cameron & Co., Waco, Tex.	Hardware	35	Texas.
Carey Lumber Co., Oklahoma	do	12	Do.
The Homes Lumber & Supply Co., Ashland, Kans.	do	17	Kansas.
Virginia Dare Stores, Corp., New York, N.Y.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Weiss Bros. Stores, Inc., New York, N.Y.	do	19	Alabama, Georgia, Indiana, Louisiana, Mississippi, Tennessee, and Texas.
Peyton-Marcus Co., Oklahoma City	do	14	Kansas, Louisiana, and Texas.
Foodtown Supermarkets, Inc., Pittsburg, Kans.	Food supply	25	Kansas and Missouri.
Family Shoe Stores, Tahlequah, Okla.	Shoes	22	Arkansas and Texas.
Welmar, Inc., New York, N.Y.	Furniture	8	Arizona, New York, North Carolina, and Pennsylvania.
S & Q Clothiers, Dallas, Tex.	Clothing and furnishings	9	Arkansas and Texas.
Bentley's, Inc., Amarillo, Tex.	do	6	Texas.
Newton Jewelry Co., Joplin, Mo.	Jewelry	8	Missouri, Arkansas, and Iowa.
Puckett's Food Stores, Sayre, Okla.	Food	11	Texas.
Duke & Ayres, Inc., Dallas, Tex.	Variety	48	Do.
M. E. Moses Co., Inc., Dallas, Tex.	do	32	Do.
Eastland 5¢-\$1.00 Stores, Tyler, Tex.	do	9	Do.
Fred Wolfermann, Inc., Kansas City, Mo.	Food	9	Missouri.
B. & J. Drug Co., Booker	Drugstore	5	Texas and New Mexico.
The Matlock Stores, La Canada, Calif.	Variety	6	California, Colorado, and Kansas.
Skaggs Drug Center, Inc., Salt Lake City, Utah	Drugstore	28	Arizona, Colorado, Idaho, Louisiana, Montana, Nevada, New Mexico, Texas, and Utah.
Parker's Food Stores, Inc., Wichita Falls, Tex.	Food	14	Texas.
Barrett Grocery Co., Denison, Tex.	do	9	Do.
Longwear Paint & Varnish Works, North Kansas City	Miscellaneous	7	Missouri, Oklahoma, and Texas.
Carpet City, Inc., Tulsa, Okla.	do	6	Arkansas.
Katz Drug Co., Kansas City	Drugstore	42	Iowa, Kansas, Missouri, and Tennessee.
Crown Drug Co., Kansas City	do	44	Kansas and Missouri.
Harrison Shoes, Inc., Coffeyville, Kans.	Shoes	10	Kansas.
Volume Shoe Distributors, Topeka, Kans.	do	8	Kansas and Texas.
Hobart Shoe Co., Wichita, Kans.	do	9	Kansas.
United Shoe Stores Co., Shreveport, La.	do	44	Louisiana, Arkansas, Georgia, Texas, Mississippi, Tennessee, and others.
Sweetbriar Shops, Inc., Denver, Colo.	Clothing and furnishings	48	Arizona, Colorado, Idaho, Montana, Kansas, Nebraska, New Mexico, South Dakota, Texas, Utah, and Wyoming.
Beard & Gabelman, Inc., Kansas City	do	36	Iowa, Missouri, Kansas, Nebraska, South Dakota, and Texas.
Rothschild's, Kansas City	do	7	Missouri.
Markson Bros., Inc., Los Angeles, Calif.	do	41	California, Arizona, Colorado, Illinois, Kansas, Maine, Massachusetts, New York, and Texas.
Babeock Bros., Auto Supply Co., Denison, Tex.	Auto supply	17	Texas.
Miami Sales Co., Miami	do	11	Kansas and Missouri.
Beemar's, Chicago, Ill.	Clothing and furnishings	19	Illinois, Indiana, Iowa, and Texas.
Southern Supply, Inc., Fort Smith, Ark.	Auto supply	6	Arkansas.
Wormser Hat Stores, Inc., New York, N.Y.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Tennessee, and Texas.

OREGON

Tanne-Arden, Inc., New York, N.Y.	Clothing	36	Arizona, California, Colorado, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Texas, Utah, Washington, and New Jersey.
National Shoe Co., Ltd., Los Angeles, Calif.	Shoe	32	Arizona, California, and Nevada.
Roe Bros. Stores, Inc., Beverly Hills, Calif.	do	46	Arizona, California, Colorado, Idaho, New Mexico, Nevada, Texas, Washington, and Wyoming.
Houie Lumber & Coal Co., Boise, Hawaii	Hardware	9	Idaho.
Zukor's, New York, N.Y.	Clothing and furnishings	16	New York, California, and Washington.
Jacqueline Shops, Portland, Oreg.	do	6	Washington.
Herman's Men's Stores, Portland, Oreg.	do	9	Do.
M. H. King Co., Burley, Idaho	Variety	20	Idaho, Montana, and Utah.
Wallpapers, Inc., Oakland, Calif.	Miscellaneous	5	Washington and California.
Sherman Clay & Co., San Francisco, Calif.	do	23	Do.
Rogers Jewelry Co., Inc., Modesto, Calif.	Jewelry	8	California and Nevada.
Weisfeld's, Inc., Seattle, Wash.	do	32	California, Idaho, and Washington.
Big "C" Stores, Portland, Oreg.	Food	20	Washington.
Oregon Piggy Wiggly Co., Portland, Oreg.	do	32	Do.
Signum Food Stores, Spokane, Wash.	do	15	Washington and Idaho.
Pay N' Save Drugs, Inc., Seattle, Wash.	Drugstore	12	Washington.
Zapp's Drug Stores, Vancouver, Wash.	do	9	Do.
Nordstrom's, Inc., Seattle, Wash.	Shoe store	18	California and Washington.
Preservative Paint Co., Seattle, Wash.	Miscellaneous	8	Washington.
The Owl Drug Co., Los Angeles, Calif.	Drugstore	31	California.
Cent-Wise Drug Stores, Lebanon, Oreg.	do	5	Washington.
Pay Less Stores, Portland, Oreg.	Drugs	18	California, Idaho, and Washington.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

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OREGON—Continued

Company	Category	Number of stores	Other States of operation
Conrad's, Inc., Denver, Colo.	Clothing and furnishings	11	Colorado, Idaho, Montana, Utah, Washington, and Wyoming.
Motherhood Maternity Shops, Inc., Los Angeles, Calif.	do	21	California.
House of Nine, Inc., Los Angeles, Calif.	do	34	California, Arizona, Texas, Colorado, Michigan, Utah, Missouri, and Pennsylvania.
Hartfield Stores, Inc., Los Angeles, Calif.	do	45	California, Arizona, New Jersey, New York, Washington, and Hawaii.
Morrow's Nut House Corp., Rialto, Calif.	Candy stores	5	California and Utah.
M. Alexander, Inc., Boise, Idaho	Clothing and furnishings	8	Idaho.

PENNSYLVANIA

Arlene Shops, Inc., New York, N.Y.	Clothing and furnishings	8	New York, Ohio, and West Virginia.
Adeline Apparel Shops, Inc., New York, N.Y.	do	49	New York, Ohio, Virginia, New Jersey, Arkansas, Illinois, Indiana, North Carolina, and Tennessee.
Gramont Co., Inc., New York, N.Y.	do	9	California, Illinois, Maryland, Michigan, Missouri, New Jersey, and New York.
Retail Jenny Shops, Inc., New York, N.Y.	do	20	Indiana, Ohio, and West Virginia.
Purlitan Federal Clothing Stores, Inc., New York, N.Y.	do	46	Connecticut, Illinois, Indiana, New Hampshire, Maine, Massachusetts, Michigan, and Vermont.
Polly Perrey Stores, Inc., New York, N.Y.	do	20	Connecticut.
Good-Vai Stores Corp., New York, N.Y.	do	26	Florida, Georgia, Massachusetts, New Hampshire, New York, North Carolina, South Carolina, and Virginia.
Label Youth Centers, New York, N.Y.	do	40	Massachusetts, New Jersey, and New York.
My Shop, Inc., New York, N.Y.	do	41	Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, North Carolina, Ohio, South Carolina, Pennsylvania, Tennessee, Virginia, and Wisconsin.
Cranes-Mayos Clothes, Inc., New York, N.Y.	do	40	Delaware, Georgia, Illinois, Indiana, New York, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.
The Custom Shops, New York, N.Y.	do	26	California, District of Columbia, Illinois, Maryland, Michigan, Minnesota, New Jersey, New York, and Ohio.
O.P.O. Clothes, New York, N.Y.	do	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia, and West Virginia.
Tall Apparel Shops, New York, N.Y.	Clothing	7	District of Columbia, Maryland, Massachusetts, Michigan, Minnesota, and New York.
Roger Kent, Inc., New York, N.Y.	do	13	Connecticut, Massachusetts, and New York.
Best & Co., Inc., New York, N.Y.	Clothing and furnishings	19	Connecticut, District of Columbia, Massachusetts, Michigan, New Jersey, New York, Ohio, and Virginia.
Ellay Stores, Inc., New York, N.Y.	do	43	Illinois, Indiana, North Carolina, Ohio, Texas, West Virginia, and New Jersey.
Eleanor Shops, Inc., New York, N.Y.	do	40	Alabama, Georgia, Mississippi, North Carolina, South Carolina, and Virginia.
Rio Frocks, Inc., New York, N.Y.	Clothing	10	New Jersey and New York.
Ripley Clothes, New York, N.Y.	do	41	Connecticut, District of Columbia, New York, Massachusetts, Missouri, New Jersey, and Rhode Island.
Lorrains Smart Shops, Inc., New York, N.Y.	Clothing and furnishings	16	Massachusetts, New Jersey, and New York.
Parkfield Shops, Inc., New York, N.Y.	do	10	Connecticut and Ohio.
Rio Frocks, Inc., New York, N.Y.	do	39	Ohio.
Consolidated Retail Stores, Inc., New York, N.Y.	do	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Tennessee, and Texas.
Collins Stores, Inc., New York, N.Y.	do	24	Kentucky, Ohio, Tennessee, and West Virginia.
Joy Stores, Inc., New York, N.Y.	do	18	Indiana, Kentucky, New Jersey, North Carolina, Ohio, Virginia, West Virginia, and Wisconsin.
Joanly Shops, Inc., New York, N.Y.	do	21	New York, North Carolina, and South Carolina.
Norstan Apparel Shop, Inc., New York, N.Y.	do	10	Ohio.
Broadstreet's, Inc., New York, N.Y.	do	12	Illinois, New Jersey, New York, and West Virginia.
Hofstadter & Albert Millinery Corp., New York, N.Y.	do	7	Washington, D.C., Maryland, Ohio, and Virginia.
Jubilee Shops, Inc., New York, N.Y.	do	15	New York, Indiana, Kansas, Maryland, New Jersey, Ohio, Texas, and Virginia.
Felsyue Shoe Corp., New York, N.Y.	Shoes	37	Delaware, District of Columbia, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, and South Carolina.
The Ormond Shops, Inc., New York, N.Y.	Clothing and furnishings	34	Maryland, New Jersey, and West Virginia.
Dundee Smart Clothes, Inc., New York, N.Y.	do	15	California, New York, Texas, Utah, and Washington.
Lloyd & Haig Shoe Corp., New York, N.Y.	Shoes	7	Illinois and New York.
Morton's Shoe Stores, Inc., Boston, Mass.	do	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Rhode Island, Texas, Vermont, and Virginia.
French, Shriner & Urner, Boston, Mass.	do	17	California, Massachusetts, Minnesota, New York, and Ohio.
I. Miller Salons, New York, N.Y.	do	14	District of Columbia, Florida, Illinois, Maryland, New Jersey, and New York.
Kitty Kelly Shoe Corp., New York, N.Y.	do	39	Florida, Illinois, Kentucky, Maryland, Michigan, New Jersey, New York, and Ohio.
The Stambaugh-Thompson Co., Youngstown, Ohio	Hardware	12	Ohio.
Whipple Bros., Inc.	do	7	New York.
Virginia Dare Stores, Corp., New York, N.Y.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Wilbur-Rogers, Inc., New York, N.Y.	do	38	Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, and Virginia.
Williams Retail Stores, Inc., New York, N.Y.	do	7	Delaware, New Jersey, and New York.
E. P. Roe Stores, Cleveland, Ohio	do	14	Illinois, Indiana, Iowa, Michigan, and Ohio.
Buehler Markets, Peoria, Ill.	Food supply	20	Illinois, Georgia, Iowa, Massachusetts, Missouri, Nebraska, and Tennessee.
E. G. Shinner & Co., Inc., Chicago, Ill.	do	47	Illinois, Iowa, Michigan, Ohio, and Wisconsin.
Thrift Shoe Stores, Inc., Wilkes-Barre, Pa.	Shoes	24	Maryland and New York.
Haines Shoe Co., Inc., York, Pa.	do	24	Maryland.
Alfred H. Cohen & Son, Upper Darby, Pa.	do	6	New Jersey and Delaware.
Glick Bros., Inc., Lewistown, Pa.	do	12	Maryland.
Brown's Boot Shops, Inc., DuBois, Pa.	do	24	New York.
I. Simon Co., Inc., New York, N.Y.	do	27	New Jersey and New York.
National Cleaning Enterprises, Inc., Portage, Pa.	Dry cleaning	33	New Jersey, Massachusetts, and Rhode Island.
Foam Ruhher Center, Passaic, N.J.	Furniture	10	New York and New Jersey.
J. B. Van Selver Co., Camden, N.J.	do	7	Delaware and New Jersey.
Fame Laundries, Inc., Indianapolis, Ind.	do	22	Indiana, Kentucky, and Ohio.
Littman's Jewelers Stores, Highland Park, N.J.	Jewelry	9	New Jersey.
Tappin's, Inc., Newark, N.J.	do	18	New Jersey and New York.
Jay Roy Co., Inc., Harrisburg, Pa.	do	25	Maryland and West Virginia.
S. A. Meyer Co., Washington, Pa.	do	15	New York, Ohio, Maryland, and West Virginia.
Ray's Jewelry Stores, Philadelphia, Pa.	do	5	New Jersey.
The Wurlitzer Co., Chicago, Ill.	Miscellaneous stores (musical instruments)	6	Illinois, Michigan, New York, and Ohio.
Sunny Surplus Agency, Baltimore, Md.	Miscellaneous stores	14	Maryland.
Rogers Toy Shops, Inc., Washington, D.C.	Miscellaneous	18	District of Columbia, Tennessee, Ohio, Florida, Alabama, Maryland, Georgia, and Virginia.
Ritz Camera Centers, Washington, D.C.	do	7	District of Columbia, New York, and Maryland.
Weimar, Inc., New York, N.Y.	Furniture	8	Arizona, New York, North Carolina, and Oklahoma.

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PENNSYLVANIA—Continued

Company	Category	Number of stores	Other States of operation
Castro Convertible Corp., New Hyde Park, N.Y.	Furniture	47	Connecticut, Florida, Maryland, Michigan, New Jersey, New York, Pennsylvania, District of Columbia, and Rhode Island.
Liehman Furniture Co., Inc., Pottsville, Pa.	do	8	Delaware.
Nichols 5¢-1.00 Stores, Inc., Hubbard, Ohio	Variety	10	Ohio.
Bloch Daneman Co., Milwaukee, Wis.	Furniture	10	Wisconsin, Maryland, Michigan, and Ohio.
Waltersdorf Furniture Co., Inc., York, Pa.	do	12	Maryland.
Super Shoe Stores, Cumberland, Md.	Shoes	14	Maryland and West Virginia.
Allied Shoe Co., Boston, Mass.	do	33	Massachusetts, Connecticut, Maine, Maryland, New Hampshire, New York, New Jersey, and Rhode Island.
Charles Stores Co., Inc., New York, N.Y.	Variety	32	New York, Kentucky, North Carolina, Tennessee, and Virginia.
Polan's 5¢-1.00 Stores, Baltimore, Md.	do	13	Delaware, District of Columbia, Florida, and Maryland.
M. H. Fishman Co., Inc., New York, N.Y.	do	47	New York, Delaware, Maine, New Hampshire, Massachusetts, New Jersey, Ohio, Vermont, and Virginia.
D. R. Pruitt Stores, Philadelphia, Pa.	do	5	New Jersey.
J. C. Kelso Stores, Erie, Pa.	do	5	New York.
National Market Co., Buffalo, N.Y.	Food	20	Do.
Century Food Markets Co., Youngstown, Ohio	do	40	Ohio.
F. C. Thomas, Inc., Olean, N.Y.	do	33	New York.
The Mohican Stores, New York, N.Y.	do	14	Do.
Quality Markets, Inc., Jamestown, N.Y.	do	42	Do.
Penn Beef Co., Philadelphia, Pa.	do	11	New Jersey.
Discount Food City, Philadelphia, Pa.	do	5	Virginia.
McAllister Dairy Farms, Inc., West Warren, Ohio	do	30	Ohio.
The Giant Markets, Scranton, Pa.	do	11	New York.
Morris Alton & Co., Pittsburgh, Pa.	Clothing and furnishings	18	West Virginia.
Penshire Clothes, Inc., Philipshurg, Pa.	do	18	Ohio.
Ward & Ward, Inc., Philadelphia, Pa.	do	17	New Jersey and New York.
Lana Lobell, Inc., Hanover, Pa.	do	8	Maryland.
Roekower Bros., Inc., Philadelphia, Pa.	do	25	Delaware, New Jersey, New York, and Virginia.
Ritter's Millinery & Sportswear, Wilkes-Barre, Pa.	do	15	New Jersey.
Fashion Hosiery Stores, Inc., Pittsburgh, Pa.	do	32	West Virginia and Ohio.
Adams Clothes, Inc., Philadelphia, Pa.	do	16	Delaware and New Jersey.
Daniel Reuzin Apparel, Kennett Square, Pa.	do	7	New Jersey.
Famous Maid Shops, Philadelphia, Pa.	do	24	Do.
Golden Dawn Hosiery Shops, Philadelphia, Pa.	do	10	Do.
Phillipshurg Grocery Co., Phillipshurg, N.J.	Food	9	Do.
Kings Supermarkets, Inc., Irvington, N.J.	do	12	New Jersey, and New York.
B. J. Hoy 5¢ & 10¢ Stores, Inc., New Castle, Del.	Variety	10	Delaware.
Zayre Corp	Discount	14	Maine, Massachusetts, Pennsylvania, and Tennessee.
Gem, Inc., St. Louis, Mo.	do	7	Colorado, Hawaii, Kansas, Missouri, and Minnesota.
Miracle Marts, New York, N.Y.	do	7	Indiana, Michigan, Rhode Island, and Virginia.
Two Guys From Harrison	do	17	Maryland, New Jersey, and New York.
Masters, Inc., Flushing, N.Y.	do	10	Florida, New Jersey, and New York.
Tower Marts, Inc., New York, N.Y.	do	12	Connecticut, District of Columbia, Maryland, Massachusetts, and New Jersey.
Bargain City U.S.A., Philadelphia, Pa.	do	13	New Jersey, and Virginia.
Atlantie Appliance Co., Inc.	Miscellaneous	12	New Jersey.
Huntsherrys, Inc., Winchester, Va.	Shoe	5	Virginia, and Maryland.
Gouhaud de Paris, Inc., New York, N.Y.	Miscellaneous	28	California, Connecticut, District of Columbia, Florida, New Jersey, New York, and Canada.
Pete Moore Appliance Center, Bristol, Tenn.	do	10	District of Columbia, Kentucky, Tennessee, and Virginia.
Finnaren & Haley, Inc., Philadelphia, Pa.	do	11	New Jersey.
M & H Sporting Goods Co., Philadelphia, Pa.	do	7	Do.
Samuel Schultz & Co., Philadelphia	do	7	Do.
Allied Hobbies, Philadelphia	do	8	Do.
Amher Tile Discount Houses, Philadelphia	do	5	Do.
Bon Ton Wallpaper Co., Inc., Philadelphia	do	7	Delaware.
M. Buten & Sons, Philadelphia	do	19	Delaware and New Jersey.
Cutler's Paint Stores, Philadelphia	do	11	New Jersey.
Sileo Cut Price Stores, Inc., Philadelphia	Drugs	50	Delaware, Maryland, New Jersey, North Carolina, Virginia, and West Virginia.
Baxter Stores, Inc., Trenton, N.J.	Clothing and furnishings	25	South Carolina, Tennessee, New Jersey, Alabama, Florida, Georgia, New York, and North Carolina.
Adams Management Corp., New York, N.Y.	do	12	Massachusetts, Minnesota, New Jersey, New York, Rhode Island, and Texas.
The Printz Co., Inc., Jamestown, N.Y.	do	8	New York and Ohio.
MyMaternity Shop, Inc., Buffalo, N.Y.	do	45	Connecticut, New York, Ohio, West Virginia, Ontario and Quebec, Canada.
Shapiro & Hersch, Elmira, N.Y.	do	17	New York.
Sa-Lee Shops, Inc., Irvington, N.J.	do	5	New Jersey and Maryland.
Jaunty Dress Shops, Inc., Newark, N.J.	do	12	New Jersey and Georgia.
Van's Hosiery Stores, Inc., Roxbury, Mass.	do	23	Massachusetts and Ohio.
The Fintex Corp., Detroit, Mich.	do	20	Michigan.
House of Nine, Inc., Los Angeles	do	34	California, Arizona, Texas, Colorado, Michigan, Utah, Missouri, and Oregon.
Shellenherger's Inc., Bridgeport	Candy stores	19	New Jersey.
Karnes Bake Shops, Inc., Pittsburgh	Bakery stores	12	Ohio.
Hollander's Home & Auto Supplies, Inc., York	Auto supply	9	Maryland.
Standard Auto & Radio Supply Co., Pittsburgh	do	13	Ohio and West Virginia.
Rose Auto Supply Co., Philadelphia	do	17	New Jersey.
Penn-Jersey Auto Stores, Inc., Philadelphia	do	27	Delaware, District of Columbia, and New Jersey.
Best Auto Supply, Inc., Philadelphia	do	6	Delaware.
Miller's Auto Supplies, Inc., Harrisburg	do	15	Maryland and West Virginia.
Joe, The Motorists' Friend, Inc., Harrisburg	do	25	Maryland, Virginia, and West Virginia.
Gatling's Auto Stores, Connellsville	do	7	West Virginia.
The Abel Corp., Columbus, Ohio	do	36	District of Columbia, Iowa, Indiana, Maryland, Ohio, Michigan, Texas, and West Virginia.
Tire Mart Stores Corp., New York, N.Y.	do	27	California, New Jersey, New York and Illinois.

PUERTO RICO

Benhil Shirt Shops, Inc., New York, N.Y.	Clothing and furnishings	24	Florida and New York.
National Bellas Dress Stores, Inc., New York	do	45	Michigan, Minnesota, Missouri, North Carolina, and South Carolina.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

[The firms are listed by State and because they are included in every State in which they operate stores, necessarily the same firm may be listed in several States]

RHODE ISLAND

Company	Category	Number of stores	Other States of operation
Albert's Hosiery Shops, New York, N.Y.	Clothing and furnishings	10	New York.
Ripley Clothes, New York, N.Y.	Clothing	41	Connecticut, District of Columbia, Massachusetts, Missouri, New Jersey, New York, and Pennsylvania.
P & Q Shops, Inc., New York, N.Y.	Clothing and furnishings	9	Connecticut, Massachusetts, and New Hampshire.
Morton's Shoe Stores, Inc., Boston, Mass.	Shoes	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Texas, Vermont, and Virginia.
Shelbro, Inc., Mount Vernon, N.Y.	do	5	Connecticut, New York, and Virginia.
Diamond National Corp., Biddeford, Maine	Hardware	26	Connecticut, Maine, Massachusetts, New Hampshire, and Vermont.
L. Grossman Sons, Inc., Quincy, Mass.	do	25	Maine, Massachusetts, and New Hampshire.
Virginia Dare Stores Corp., New York, N.Y.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.
Kay's-Newport, Inc., Providence, R.I.	Shoes	21	Massachusetts, New York, and Connecticut.
National Cleaning Enterprises, Inc., Portage, Pa.	Drycleaning	33	Pennsylvania, New Jersey, and Massachusetts.
Bush & Co., Inc., North Dartmouth, Mass.	do	22	Massachusetts.
Allied Shoe Co., Boston, Mass.	Shoes	33	Massachusetts, Connecticut, Maine, Maryland, New Hampshire, New York, New Jersey, and Pennsylvania.
Morton's Shoe Stores, Inc., Boston, Mass.	do	15	Massachusetts, Connecticut, Delaware, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Texas, Vermont, and Virginia.
Cumberland Farms, Woonsocket, R.I.	Food	17	Massachusetts.
Great Scott Food Markets, Inc., Providence, R.I.	do	21	Do.
Almac's, Inc., East Providence, R.I.	do	47	Do.
Castro Convertible Corp., New Hyde Park, N.Y.	Furniture	21	Connecticut, Florida, Maryland, Michigan, New Jersey, New York, Pennsylvania, and District of Columbia.
Cherry & Wehh Co., Providence, R.I.	Clothing and furnishings	6	Massachusetts.
Miracle Marts, New York, N.Y.	Discount stores	7	Indiana, Michigan, Pennsylvania, and Virginia.
Star Market Co., Newtonville, Mass.	Food	19	Massachusetts.
Fryer's Cigar Co., Brockton, Mass.	Miscellaneous	9	Do.
Adams Drug Co., Inc.	Drugs	20	New York and New Hampshire.
Adams Management Corp., New York, N.Y.	Clothing and furnishings	12	Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, and Texas.
Kennedy's, Inc., Boston, Mass.	do	16	Connecticut, Maine, Massachusetts, and New Hampshire.
Stork Time, Inc., Boston, Mass.	do	7	Connecticut and Rhode Island.
The Primrose Shops, Quincy, Mass.	do	6	Massachusetts.
Benny's, Inc., Providence, R.I.	Auto supply	21	Massachusetts and Connecticut.
Thorpe Automotive Co., Pawtucket	do	6	Massachusetts.
Kaufman & Chernick, Inc., Pawtucket	do	23	Do.

SOUTH CAROLINA

Baxter Stores, Inc., Trenton, N.J.	Clothing and furnishings	25	Tennessee, New Jersey, Alabama, Florida, Georgia, New York, North Carolina, and Pennsylvania.
Good-Val Stores Corp., New York, N.Y.	do	26	Florida, Georgia, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, and Virginia.
Kenwin Shops, Inc., New York	do	20	Alabama, Georgia, and North Carolina.
My Shop, Inc., New York	do	41	Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and Wisconsin.
Crane's-Mayos Clothes, Inc., New York, N.Y.	do	40	Delaware, Georgia, Illinois, Indiana, New York, North Carolina, Pennsylvania, Tennessee, Virginia, and West Virginia.
O. P. O. Clothes, New York	do	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, Tennessee, Texas, Virginia, and West Virginia.
Felsway Shoe Corp., New York, N.Y.	Shoes	37	Delaware, District of Columbia, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, and Pennsylvania.
Smart & Thrifty Dresses, Inc., New York, N.Y.	Clothing	33	Alabama, Florida, Louisiana, Texas, and Virginia.
Sumner Stores Corp., New York, N.Y.	do	33	Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, Texas, Tennessee, Virginia, and New York.
Eleanor Shops, Inc., New York, N.Y.	Clothing and furnishings	40	Alabama, Georgia, Mississippi, North Carolina, Pennsylvania, and Virginia.
Joanly Shops, Inc., New York	do	21	New York, North Carolina, and Pennsylvania.
National Bellas Hess Stores, Inc., New York	do	45	Michigan, Minnesota, Missouri, North Carolina, and Puerto Rico.
Bomar Shoe Co., Atlanta, Ga.	Shoes	8	Georgia and North Carolina.
Sullivan Hardware Co., Anderson, S.C.	Hardware	6	North Carolina.
Virginia Dare Stores, Corp., New York, N.Y.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, and Wisconsin.
National Manufacture & Stores, Corp., Atlanta, Ga.	Furniture	40	Alabama, Georgia, North Carolina, Louisiana, Tennessee, and Texas.
Cato Stores, Inc., Charlotte, N.C.	Clothing and furnishings	50	North Carolina and Virginia.
Haverty Furniture Co., Atlanta, Ga.	Furniture	28	Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, Tennessee, Texas, and Virginia.
Maxwell Bros., Inc., Augusta, Ga.	do	34	Georgia and North Carolina.
H. B. Phillips, Inc., Orangeburg, S.C.	Shoes	26	Florida and North Carolina.
C. H. Larkins Clothing Stores, Inc., Kinston, N.C.	Clothing and furnishings	17	North Carolina.
Mather Bros. Stores, Atlanta, Ga.	Furniture	25	Georgia and Florida.
Sterchi Bros. Stores, Inc., Knoxville, Tenn.	do	44	Tennessee, Alabama, Florida, Georgia, Kentucky, and North Carolina.
Crest Stores Co., Charlotte, N.C.	Variety	13	North Carolina and Virginia.
Wood's 5¢ & 10¢ Stores, Inc., Rockingham, N.C.	do	19	North Carolina.
Mack's 5¢-10¢-25¢ Stores, Inc., Sanford, N.C.	do	31	Georgia, North Carolina, and Virginia.
Kimhrell's, Inc., Charlotte, N.C.	Furniture	25	North Carolina.
Geyerman's, Inc., Mitchell, S.C.	Clothing and furnishings	5	Minnesota and South Dakota.
John Mullins & Sons, Inc., Brooklyn, N.Y.	Furniture	17	New York, Florida, and Mississippi.
Mumford Do-It-Yourself Stores, Inc., Atlanta, Ga.	Miscellaneous stores	43	Alabama, Florida, Georgia, North Carolina, Tennessee, and Virginia.
United 5¢-10¢ Stores, Inc., Savannah, Ga.	Variety	27	Georgia.
The E. I. Lewis Co., Spartanburg, S.C.	do	9	North Carolina.
Harper's 5¢-10¢ Stores, Seneca, S.C.	do	12	Georgia.
Cassels United Stores, Inc.,asley, S.C.	do	17	Georgia and North Carolina.
W. V. Ramsey Co., Mountain City, Tenn.	do	5	North Carolina, Virginia, and Tennessee.
Wholesale Merchandise Co., Knoxville, Tenn.	do	31	Tennessee.
Piggly Wiggly Wholesale, Inc., Charleston Heights, S.C.	Food	48	North Carolina.
The National Hotel Co., Galveston, Tex.	Drugstore	14	Alabama, Indiana, Louisiana, Nebraska, Texas, and Virginia.
Olan Mills, Inc., Chattanooga, Tenn.	Miscellaneous	35	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, and Virginia.
John Baldwin, Inc., St. Petersburg, Fla.	Clothing and furnishings	5	Florida.
Advance Stores Co., Roanoke, Va.	Auto supply	46	North Carolina, Tennessee, and Virginia.
Kenwin Shops, Waycross, Ga.	Clothing and furnishings	18	Alabama, Georgia, and North Carolina.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

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SOUTH DAKOTA

Company	Category	Number of stores	Other States of operation
Linpark Clothing Corp., New York	Clothing and furnishings	12	Iowa, Minnesota, Nebraska, New York, and Wisconsin.
Jarold Shops, Inc., New York	do	19	Nebraska, Kansas, and Oklahoma.
Bierbaum & Son, Rapid City, S. Dak.	Auto supply	8	Wyoming.
Caldwells' Shoes, Inc., Kansas City, Mo.	Shoes	7	Kansas and Missouri.
L. Goldman Shoe Co., Denver, Colo.	do	5	Colorado, Nebraska, and Wyoming.
Tradohome Shoe Stores, Inc., St. Paul, Minn.	do	20	Iowa, Minnesota, and Wisconsin.
Riviu Bros. Stores, Sioux City, Iowa	Food supply	7	Iowa and Minnesota.
National 5¢-1.00 Stores, St. Paul, Minn.	Variety	12	Minnesota and Iowa.
Geyerman's, Inc., Mitchell, S. C.	Clothing and furnishings	5	Minnesota and South Carolina.
Lindrud's 5¢-1.00 Stores, Madison, Minn.	Variety	15	North Dakota and Minnesota.
Randall Stores, Inc., Mitchell, S. Dak.	Food	8	Iowa.
White Drug Co., Jamestown, N. Dak.	Drugstore	11	North Dakota.
Sunshine Food Markets, Sioux Falls, S. Dak.	Food	11	Iowa.
Buttrey Stores, Inc., Minneapolis, Minn.	Clothing and furnishings	23	Iowa, Minnesota, North Dakota, and Wisconsin.
Sweetbriar Shops, Inc., Denver, Colo.	do	48	Arizona, Colorado, Idaho, Montana, Kansas, Nebraska, New Mexico, Oklahoma, Texas, Utah, and Wyoming.
Beard & Gabelman, Inc., Kansas City, Mo.	do	36	Iowa, Missouri, Kansas, Nebraska, Oklahoma, and Texas.

TENNESSEE

Adeline Apparel Shops, Inc., New York, N.Y.	Clothing and furnishings	49	New York, Ohio, Pennsylvania, Virginia, New Jersey, Arkansas, Illinois, Indiana, and North Carolina.
Baxter Stores, Inc.	do	25	New Jersey, Alabama, Florida, Georgia, New York, North Carolina, Pennsylvania, and South Carolina.
My Shop, Inc., New York, N.Y.	do	41	Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, and Wisconsin.
O.P.O. Clothes, New York, N.Y.	do	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Texas, Virginia, and West Virginia.
Cranes-Mayos Clothes, Inc., New York, N.Y.	do	40	Georgia, Delaware, Illinois, Indiana, New York, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia.
Sumner Stores Corp., New York, N.Y.	Clothing	33	Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, South Carolina, Texas, Virginia, and New York.
Collins Stores, Inc., New York, N.Y.	Clothing and furnishings	24	Kentucky, Ohio, Pennsylvania, and West Virginia.
Consolidated Retail Stores, Inc., New York, N.Y.	do	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, and Texas.
Krasner Bros., Inc., New York, N.Y.	do	26	Kentucky, Maryland, Missouri, and West Virginia.
Lady Oris Hosiery Shops, New York, N.Y.	do	11	Illinois, Kentucky, Louisiana, New York, and Texas.
Millinery Stores, New York, N.Y.	do	27	Connecticut, Washington, D.C., Illinois, Indiana, Minnesota, Ohio, and Texas.
American Shoe Co., Inc., St. Louis, Mo.	Shoes	29	Indiana, Kentucky, Missouri, and North Dakota.
Geo. E. Keith Co., Brockton, Mass.	do	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Texas, and Utah.
Haverty Furniture Co., Atlanta, Ga.	Furniture	28	Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, South Carolina, Texas, and Virginia.
Weiss Bros. Stores, Inc., New York, N.Y.	Clothing and furnishings	19	Alabama, Georgia, Indiana, Louisiana, Mississippi, Oklahoma, and Texas.
Wormser Hat Stores, Inc., New York, N.Y.	do	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, and Texas.
National Manufacture & Stores Corp., Atlanta, Ga.	Furniture	40	Alabama, Georgia, North Carolina, Louisiana, South Carolina, and Texas.
Virginia Daro Stores Corp., New York, N.Y.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, and Wisconsin.
B. G. Wholesale, Inc., Bowling Green, Ky.	Food supply	23	Kentucky.
Buehler Markets, Peoria, Ill.	do	20	Illinois, Georgia, Iowa, Massachusetts, Missouri, Nebraska, Pennsylvania.
Family Booterie, Nashville, Tenn.	Shoes	8	Georgia.
Big 'B' One Hour Cleaners, Richmond, Ky.	Drycleaning	15	Florida, Illinois, Iowa, Kentucky, Missouri, and Virginia.
Perel & Lowenstein, Memphis, Tenn.	Jewelry	7	Arkansas and Kentucky.
Darwin's, Cookeville, Tenn.	Clothing and furnishings	5	Alabama.
The Nettie Lee Shops, Kingsport, Tenn.	do	7	Virginia.
Sterchi Bros. Stores, Inc., Knoxville, Tenn.	Furniture	44	Alabama, Florida, Georgia, Kentucky, North Carolina, and South Carolina.
Hecht's, Memphis, Tenn.	Clothing and furnishings	6	Alabama.
Rogers Toy Shops, Inc., Washington, D.C.	Miscellaneous	18	Washington, District of Columbia, Ohio, Florida, Alabama, Maryland, Georgia, Pennsylvania, and Virginia.
Forsyth Fabrics, Inc., Atlanta, Ga.	do	9	Alabama, Georgia, Illinois, Iowa, Kentucky, and Louisiana.
Munford Do-It-Yourself Stores, Inc., Atlanta, Ga.	do	43	Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia.
Charles Stores Co., Inc., New York, N.Y.	Variety	32	New York, Kentucky, North Carolina, Pennsylvania, and Virginia.
U-Tote-Em Grocery Co., Jackson, Tenn.	Food	11	Kentucky.
Red Food Stores, Inc., Chattanooga, Tenn.	do	15	Georgia.
The Home Stores, Inc., Chattanooga, Tenn.	do	27	Do.
Economy 5¢-1.00 Stores, Chattanooga, Tenn.	Variety	6	Do.
Redford Stores, Inc., Chattanooga, Tenn.	do	26	Georgia and Alabama.
U.S. 5¢-10¢ Stores, Chattanooga, Tenn.	do	22	Georgia and Alabama.
Lay & Co., Inc., Cleveland, Tenn.	do	18	North Carolina, Georgia, and Alabama.
Wholesale Merchandise Co., Knoxville, Tenn.	do	31	South Carolina.
Kuhn Bros. Co., Nashville, Tenn.	do	43	Alabama, Kentucky, and Mississippi.
W. V. Ramsey Co., Mountain City, Tenn.	do	5	North Carolina, South Carolina, and Virginia.
Barnett-Levey Co., Memphis, Tenn.	do	14	Mississippi and Arkansas.
W. L. Bentley's 5¢-1.00 Stores, Springfield, Tenn.	do	10	Kentucky and Alabama.
Bower's Stores, Asheville	Discount	12	Georgia, Kentucky, and North Carolina.
Zayre Corp., Natick	do	14	Maine, Massachusetts, and Pennsylvania.
David Lee Stores, Birmingham, Ala.	Variety	17	Alabama and Georgia.
Fuller Supermarkets, Inc., Nashville, Tenn.	Food	9	Alabama.
Pete Moore Appliance Center, Bristol	Miscellaneous	10	Washington, D.C., Kentucky, Pennsylvania, and Virginia.
RemnantHouse (fabrics), Ripley	do	14	Arkansas, Illinois, Indiana, Kentucky, and Missouri.
Wallace E. Johnson Supply Co., Memphis, Tenn.	do	7	Arkansas and Mississippi.
Olan Mills, Inc., Chattanooga, Tenn.	do	35	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Virginia.
Hale Drug Co.	Drugs	14	Alabama, Arkansas, Georgia, Mississippi, North Carolina, and Tennessee.
City Drug Co., Marysville, Tenn.	do	5	North Carolina.
Katz Drug Co., Kansas City	do	42	Iowa, Kansas, Missouri, and Oklahoma.
United Shoe Stores, Co., Shreveport, La.	Shoes	44	Louisiana, Arkansas, Georgia, Texas, Mississippi, Oklahoma, and others.
Dotty Shops, Inc.	Clothing and furnishings	6	Missouri, Illinois, and Kentucky.
Advance Stores Co., Roanoke, Va.	Auto supply	46	North Carolina, South Carolina, and Virginia.
Free Service Tire Stores, Inc., Johnson City	do	11	North Carolina.
Royal Auto Supply Co., Birmingham, Ala.	do	12	Alabama.
Auto-Lee Stores, Inc., New Orleans, La.	do	50	Alabama, Florida, Louisiana, and Mississippi.
Economy Auto Stores, Inc., Atlanta, Ga.	do	28	Alabama, Florida, and Georgia.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

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TEXAS

Company	Category	Number of stores	Other States of operation
King Clothing Co., Inc., New York, N.Y.	Clothing and furnishings	18	Indiana, Michigan, and Ohio.
O.P.O. Clothes, New York, N.Y.	do	34	Alabama, Arizona, California, Florida, North Carolina, Georgia, Louisiana, Maryland, Mississippi, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.
Smart & Thrifty Dresses, Inc., New York, N.Y.	Clothing	33	Alabama, Florida, Louisiana, South Carolina, and Virginia.
Sumner Stores Corp., New York, N.Y.	do	33	Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, South Carolina, Tennessee, Virginia, and New York.
Juhlee Shops, Inc., New York, N.Y.	Clothing and furnishings	15	New York, Indiana, Kansas, Maryland, New Jersey, Ohio, Pennsylvania, and Virginia.
Tanne-Arden, Inc., New York, N.Y.	Clothing	36	Arizona, California, Colorado, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Utah, Washington, and New York.
Ellay Stores, Inc., New York, N.Y.	Clothing and furnishings	43	Illinois, Indiana, North Carolina, Ohio, Pennsylvania, West Virginia, and New Jersey.
Consolidated Retail Stores, Inc., New York, N.Y.	do	29	Alabama, Arkansas, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Ohio, Oklahoma, Pennsylvania, and Tennessee.
Lady Oris Hosiery Shops, New York, N.Y.	do	11	Illinois, Kansas, Louisiana, New York, and Tennessee.
Millinery Stores, New York, N.Y.	do	27	Connecticut, Washington, D.C., Illinois, Indiana, Minnesota, Ohio, and Tennessee.
Dundee Smart Clothes, Inc., New York, N.Y.	do	15	California, New York, Pennsylvania, Utah, and Washington.
Midland Shoe Co., St. Louis, Mo.	Shoes	38	Alabama, Arkansas, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, and Wisconsin.
Morton's Shoe Stores, Inc., Boston, Mass.	do	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, and Virginia.
Roe Bros. Stores, Inc., Beverly Hills, Calif.	do	46	Arizona, California, Colorado, Idaho, New Mexico, Nevada, Oregon, Washington, and Wyoming.
Weiss & Neumann Shoe Co., St. Louis, Mo.	do	50	Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, and Wisconsin.
Wm. Cameron & Co., Waco, Tex.	Hardware	35	Oklahoma.
Carey Lumber Co., Oklahoma	do	12	Do.
Kemp Lumber Co., Roswell, N. Mex.	do	7	New Mexico.
Virginia Dare Stores, Corp., New York, N.Y.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and Wisconsin.
National Manufacture & Stores Corp., Atlanta, Ga.	Furniture	40	Alabama, Georgia, North Carolina, Louisiana, South Carolina, and Tennessee.
Wormser Hat Stores, Inc., New York, N.Y.	Clothing and furnishings	42	Alabama, Arkansas, Colorado, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, and Tennessee.
Weiss Bros. Stores, Inc., New York, N.Y.	do	19	Alabama, Georgia, Indiana, Louisiana, Mississippi, Oklahoma, and Tennessee.
Peytoh-Marcus Co., Oklahoma City, Okla.	do	14	Kansas, Louisiana, and Oklahoma.
Haverty Furniture Co., Atlanta, Ga.	Furniture	28	Alabama, Arkansas, Florida, Georgia, Tennessee, Louisiana, North Carolina, South Carolina, and Virginia.
Hemenway Furniture Co., Inc., Shreveport, La.	do	10	Louisiana.
Geo. E. Keith Co., Brockton, Mass.	Shoes	14	Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, and Utah.
Family Shoe Stores, Tahlequah, Okla.	do	22	Arkansas and Oklahoma.
Given Bros., Inc., El Paso, Tex.	do	20	Arizona and New Mexico.
Austin Shoe Stores, Dallas, Tex.	do	33	Louisiana.
Magikist Service Corp., Chicago, Ill.	Drycleaning	10	Arizona, California, Florida, Illinois, Indiana, Massachusetts, Michigan, New York, Ohio, Pennsylvania, and Wisconsin.
Page Co., Inc., Dallas, Tex.	Clothing and furnishings	9	California, Michigan, and Ohio.
Bentley's, Inc., Amarillo, Tex.	do	6	Also Oklahoma.
Morton's Shoe Stores, Inc., Boston, Mass.	Shoes	15	Massachusetts, Connecticut, Delaware, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, and Virginia.
S & Q Clothiers, Dallas, Tex.	Clothing and furnishings	9	Arkansas and Oklahoma.
Heath Furniture Co., Amarillo, Tex.	Furniture	10	New Mexico.
M. N. Landau Stores, Inc., New York, N.Y.	Variety	20	New York, Connecticut, Indiana, Massachusetts, Michigan, New Hampshire, New Jersey, and North Carolina.
Jean Heart Shops, Tyler, Tex.	Clothing and furnishings	9	Louisiana.
Palais Royal, Inc., Houston, Tex.	do	10	Arkansas and Louisiana.
Aaronson Bros. Stores Corp., El Paso, Tex.	do	22	Louisiana.
Brookshire's Food Stores, Tyler, Tex.	Food	17	Arizona and New Mexico.
Circle "K" Drive-In Food Stores, El Paso, Tex.	do	34	New Mexico.
Evans Foodway Stores, Big Lake, Tex.	do	10	Oklahoma.
Barrett Grocery Co., Denison, Tex.	do	9	Missouri, Kansas, and Oklahoma.
Longwear Paint & Varnish Works, North Kansas City, Tex.	Miscellaneous	7	Arizona, Florida, Illinois, and Kentucky.
Lewis Shoe Stores, Waco, Tex.	Shoe store	14	Louisiana.
Kuhn Paint Co., Houston, Tex.	Miscellaneous	14	Oklahoma and Kansas.
Volume Shoe Distributors, Topeka, Kans.	Shoes	8	Louisiana.
Bay Shoe Co., Inc., New Orleans, La.	do	7	Do.
Newstadt's Shoe Stores, Shreveport, La.	do	8	Louisiana, Arkansas, Georgia, Mississippi, Oklahoma, Tennessee, and others.
United Shoe Stores Co., Shreveport, La.	do	44	Colorado, Iowa, Minnesota, and Nebraska.
Schaffer's, St. Paul, Minn.	Clothing and furnishings	8	Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, and Rhode Island.
Adams Management Corp., New York, N.Y.	do	12	Arizona, Colorado, Idaho, Montana, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Utah, and Wyoming.
Swcethriar Shops, Inc., Denver, Colo.	do	48	Louisiana.
Aaronson Bros. Stores Corp., El Paso, Tex.	do	22	Oklahoma.
P. W. West's Stores, De Ridder, La.	Variety	5	Do.
Puckett's Food Stores, Sayre, Okla.	Food	11	Do.
Eastland 5¢-1.00 Stores, Tyler, Tex.	Variety	9	New Mexico.
M. E. Moses Co., Inc., Dallas, Tex.	do	32	Oklahoma.
E. B. Mott Co., Dallas, Tex.	do	42	New Mexico.
Duke & Ayres, Inc., Dallas, Tex.	do	48	Oklahoma.
C. G. Morrison & Co. 5¢-1.00 Stores, Alpine, Tex.	do	18	New Mexico.
The Fed-Mart Corp., San Diego, Calif.	Discount stores	7	Arizona and California.
Cashway Supermarkets, Hobbs, N. Mex.	Food	6	New Mexico.
Shop Rite Foods, Inc., Albuquerque, N. Mex.	do	49	Do.
B. & J. Drug Co., Booker, Tex.	Drugstore	5	New Mexico and Oklahoma.
The National Hotel Co., Galveston, Tex.	do	14	Alabama, Indiana, Louisiana, Nebraska, South Carolina, and Virginia.
Skaggs Drug Center, Inc., Salt Lake City, Utah	do	28	Arizona, Colorado, Idaho, Louisiana, Montana, Nevada, New Mexico, Oklahoma, and Utah.
Parker's Food Stores, Inc., Wichita Falls, Tex.	Food	14	Oklahoma.
Beard & Babelman	Clothing and furnishings	36	Iowa, Missouri, Kansas, Nebraska, Oklahoma, and South Dakota.
Sally Ann Shops, Inc., St. Louis, Mo.	do	19	Missouri and Illinois.
Markson Bros., Inc., Los Angeles, Calif.	do	41	California, Arizona, Colorado, Illinois, Kansas, Maine, Massachusetts, New York, and Oklahoma.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

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TEXAS—Continued

Company	Category	Number of stores	Other States of operation
House of Nine, Inc., Los Angeles, Calif.	Clothing and furnishings	34	California, Arizona, Colorado, Michigan, Utah, Missouri, Oregon, and Pennsylvania.
Maternity Modes, Phoenix, Ariz.	do.	6	New Mexico and Arizona.
Babcock Bros. Auto Supply Co., Denison, Tex.	Auto supply	17	Oklahoma.
The Abel Corp., Columbus, Ohio	do.	36	District of Columbia, Iowa, Indiana, Maryland, Michigan, Pennsylvania, Ohio, and West Virginia.
Beenar's, Chicago, Ill.	Clothing and furnishings	19	Illinois, Indiana, Iowa, and Oklahoma.

UTAH

Tanne-Areen, Inc., New York, N.Y.	Clothing	36	Arizona, California, Colorado, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Texas, Washington, and New York.
Dundee Smart Clothes, Inc., New York, N.Y.	do.	15	California, New York, Pennsylvania, Texas, and Washington.
Rollnick Shoe Co., Denver, Colo.	Shoes	9	Colorado, Idaho, and Wyoming.
Anderson Lumber Co., Ogden, Utah	Hardware	16	Idaho.
Mountain States Implement Co., Ogden, Utah	do.	9	Do.
M. H. King Co., Burley, Idaho	Variety	20	Idaho, Montana, and Oregon.
Lowe Drug Co., Salt Lake City, Utah	Drugstore	5	Idaho.
Skaggs Drug Center, Inc., Salt Lake City, Utah	do.	28	Arizona, Colorado, Idaho, Louisiana, Montana, Nevada, New Mexico, Oklahoma, and Texas.
Allen's Cash Stores, Toole, Utah	Food	8	Nevada.
Bennett's (paints), Salt Lake City, Utah	Miscellaneous	8	California and Idaho.
Union Distributing Co., Salt Lake City, Utah	do.	5	Wyoming.
Sweetbriar Shops, Inc., Denver, Colo.	Clothing and furnishings	48	Arizona, Colorado, Idaho, Montana, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming.
Conrad's, Inc., Denver, Colo.	do.	11	Colorado, Idaho, Montana, Oregon, Washington, and Wyoming.
House of Nine, Inc., Los Angeles, Calif.	do.	34	California, Arizona, Texas, Colorado, Michigan, Missouri, Oregon, and Pennsylvania.
Morrow's Nut House Corp., Rialto, Calif.	Candy stores	5	California and Oregon.

VERMONT

Puritan Federal Clothing Stores, Inc., New York	Clothing and furnishings	46	Connecticut, Illinois, Indiana, New Hampshire, Maine, Massachusetts, Michigan, and Pennsylvania.
Miss New York Frocks, Inc., New York	do.	5	Massachusetts and New York.
J. Baker, Inc., Worcester, Mass.	Shoes	14	Connecticut and Massachusetts.
Morton's Shoe Stores, Inc., Boston, Mass.	do.	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, and Virginia.
Diamond National Corp., Biddeford, Maine	Hardware	26	Connecticut, Maine, Massachusetts, New Hampshire, and Rhode Island.
J. Baker, Inc., Worcester, Mass.	Shoes	14	Connecticut and Massachusetts.
Morton's Shoe Stores, Inc., Boston, Mass.	do.	15	Massachusetts, Connecticut, Delaware, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, and Virginia.
Union-Fern, Inc., Troy, N.Y.	Furniture	12	Massachusetts and New York.
Max Dichter, Inc., Jamaica Plains, Mass.	Variety	5	Massachusetts and New Hampshire.
M. H. Fishman Co., Inc., New York	do.	47	New York, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Ohio, Virginia, and Pennsylvania.
Max Dichter, Inc., Jamaica Plains	Discount stores	5	Massachusetts, New Jersey, New York, and Ohio.
National Army Stores Corp., Plattsburg	Miscellaneous	19	New York.
Strollman Shops, Forest Hills, N.Y.	Clothing and furnishings	7	Do.

VIRGINIA

Adeline Apparel Shops, Inc., New York, N.Y.	Clothing and furnishings	49	New York, Ohio, New Jersey, Arkansas, Illinois, Indiana, North Carolina, Tennessee, and Pennsylvania.
Good-Val Stores Corp., New York, N.Y.	do.	26	Florida, Georgia, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, and South Carolina.
My Shop, Inc., New York	do.	41	Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, and Wisconsin.
Cranes-Mayos Clothes, Inc., New York, N.Y.	do.	40	Delaware, Georgia, Illinois, Indiana, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, and West Virginia.
O.P.O. Clothes, New York	do.	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, and West Virginia.
Smart & Thrifty Dresses, Inc., New York, N.Y.	Clothing	33	Alabama, Florida, Louisiana, South Carolina, and Texas.
Eleanor Shops, Inc., New York, N.Y.	Clothing and furnishings	40	Alabama, Georgia, Mississippi, North Carolina, Pennsylvania, and South Carolina.
Sumner Stores Corp., New York, N.Y.	Clothing	33	Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, South Carolina, Texas, Tennessee, and New York.
Jubilee, Shops, Inc., New York	Clothing and furnishings	15	New York, Indiana, Kansas, Maryland, New Jersey, Ohio, Pennsylvania, and Texas.
Best & Co., Inc., New York, N.Y.	do.	19	Connecticut, District of Columbia, Massachusetts, Michigan, New Jersey, New York, Ohio, and Pennsylvania.
Hofstadter & Albert Millinery Corp., New York	do.	7	Washington, D.C., Maryland, Pennsylvania, and Ohio.
Morton's, New York	do.	5	District of Columbia and Maryland.
Joy Stores, Inc., New York	do.	18	Indiana, Kentucky, New Jersey, North Carolina, Ohio, Pennsylvania, West Virginia, and Wisconsin.
Montaldo's, New York	do.	11	Arkansas, Colorado, Missouri, New Jersey, North Carolina, Ohio, and Oklahoma.
David's Specialty Shops, Inc., New York, N.Y.	do.	15	District of Columbia, New York, and Ohio.
Felsner Shoe Stores, Washington, D.C.	Shoes	13	District of Columbia and Maryland.
Morton's Shoe Stores, Inc., Boston, Mass.	do.	15	Connecticut, Delaware, Georgia, Louisiana, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, and Vermont.
Shelbro, Inc., Mount Vernon, N.Y.	do.	5	Connecticut, New York, and Rhode Island.
People's Hardware Stores, Washington, D.C.	Hardware	19	District of Columbia and Maryland.
Wilbur-Rogers, Inc., New York, N.Y.	Clothing and furnishings	38	Delaware, District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, and Pennsylvania.
Virginia Dare Stores Corp., New York, N.Y.	do.	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Wisconsin.

List of retail chain enterprises operating from 5 to 50 stores in more than one State who would be covered by a test which brings under the act any enterprise which operates 2 or more retail stores in 2 or more States—Continued

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VIRGINIA—Continued

Company	Category	Number of stores	Other States of operation
Cato Stores, Inc., Charlotte, N.C.	Clothing and furnishings	50	North Carolina, and South Carolina.
Haverty Furniture Co., Atlanta, Ga.	Furniture	28	Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, and Texas.
Greenbelt Consumer Services, Inc., Beltsville, Md.	Food supply	10	Maryland.
Siehler Furniture Co., Inc., Baltimore, Md.	Furniture	7	Maryland, and West Virginia.
Elite Laundry & Cleaning Co., Washington, D.C.	Drycleaning	10	Washington, D.C., and Maryland.
Nathan & Sylvia Robin, Inc., Washington, D.C.	do	14	Do.
Big "B" One Hour Cleaners, Richmond, Ky.	do	15	Florida, Illinois, Iowa, Kentucky, Missouri, Tennessee, and Virginia.
Blue Ribbon Laundry, Bethesda, Md.	do	28	Maryland, and Washington, D.C.
The Nettie Lee Shops, Kingsport, Tenn.	Clothing and furnishings	7	Tennessee.
Morton's Shoe Stores, Inc., Boston, Mass.	Shoes	15	Massachusetts, Connecticut, Delaware, Georgia, Louisiana, Michigan, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Texas, and Vermont.
Barr Stores, Inc., Covington, Va.	Variety	6	West Virginia.
Wilson's 5¢-10¢-25¢ Stores, Royston, Ga.	do	7	Georgia.
Robertson's 5¢-10¢ Stores, Inc., Falls Church, Va.	do	5	District of Columbia.
Munford Do-It-Yourself Stores, Inc., Atlanta, Ga.	Miscellaneous stores	43	Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee.
Market Tire Co., Rockville, Md.	do	8	Washington, D.C., and Maryland.
George's Warehouse Supermarkets, Washington, D.C.	do	7	Washington, D.C.
Home, Inc. (paints, glass, and tile), Washington, D.C.	do	10	Washington, D.C., and Maryland.
Rogers Toy Shops, Inc., Washington, D.C.	do	18	Washington, D.C., Tennessee, Ohio, Florida, Alabama, Maryland, Georgia, and Pennsylvania.
Stidham Tire Stores, Washington, D.C.	do	7	Washington, D.C., and Maryland.
Charles G. Stott Co., Inc., Washington, D.C.	do	6	Do.
W. R. Winslow Co. (paints), Washington, D.C.	do	8	Do.
Mack's 5¢-10¢-25¢ Stores, Inc., Sanford, N.C.	Variety	31	Georgia, North Carolina, and South Carolina.
P & N 5¢-10¢ Stores, Inc., Kernersville, N.C.	do	5	North Carolina.
Crest Stores Co., Charlotte	do	13	North Carolina and South Carolina.
Fine's Men's Shops, Inc., Norfolk, Va.	Clothing and furnishings	7	North Carolina.
Barr Bros., Inc., Norfolk, Va.	Jewelry	17	Do.
W. M. Wall Jewelers, Elkin, N.C.	do	5	Do.
M. H. Fishman Co., Inc., New York	Variety	47	New York, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Ohio, Pennsylvania, and Vermont.
Charles Stores Co., Inc., New York	do	32	New York, Kentucky, North Carolina, Pennsylvania, and Tennessee.
W. V. Ramsey, Co., Mountain City, Tenn.	do	5	South Carolina, North Carolina, and Tennessee.
Discount Food City, Philadelphia, Pa.	Food	5	Philadelphia.
Rockover Bros., Inc., Philadelphia, Pa.	Clothing and furnishings	25	Delaware, New Jersey, New York, and Pennsylvania.
The National Hotel Co., Galveston, Tex.	Drugstore	14	Alabama, Indiana, Louisiana, Nebraska, South Carolina, and Texas.
H. S. King Co., Washington, D.C.	Variety	5	Maryland and District of Columbia.
Tazewell Supply Co., Inc., North Tazewell, Va.	Food	5	West Virginia.
Dalmo Sales Co., Washington, D.C.	Discount stores	5	Washington and Maryland.
Miracle Martz, New York	do	7	Indiana, Michigan, Pennsylvania, and Rhode Island.
Bargain City U.S.A., Philadelphia	do	13	New Jersey and Pennsylvania.
Standard Drug Co., Richmond	Drugstore	13	District of Columbia.
Patterson Drug Co., Lynchburg, Va.	do	11	North Carolina.
Huntsberys, Inc., Winchester	Shoe store	5	Maryland and Pennsylvania.
Critzer Footwear, Inc., Waynesboro	do	14	Maryland.
Hofheimer's, Inc., Norfolk	do	20	North Carolina.
Brentano's, Inc., New York	Miscellaneous	13	Washington, D.C., Maryland, New Jersey, and New York.
Olan Mills, Inc., Chattanooga	do	35	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
Pete Moore Appliance Center, Bristol	do	10	Washington, D.C., Kentucky, Pennsylvania, and Tennessee.
Metro Drug Stores, Riverdale	Drugstore	10	Maryland and District of Columbia.
Save-Mor-Drugs, Inc., Washington	do	10	District of Columbia.
Dart Drug Corp.	do	13	District of Columbia and Maryland.
Silco Cut Price Stores, Inc., Philadelphia, Pa.	Drugs	50	Delaware, New Jersey, Maryland, Pennsylvania, North Carolina, and West Virginia.
Jelleff's, Inc., Washington, D.C.	Clothing and furnishings	6	District of Columbia and Maryland.
Terry Shops, Newark, N.J.	do	24	New Jersey, Delaware, New York, and Virginia.
Webster Clothes, Inc., Baltimore, Md.	do	19	District of Columbia, Indiana, Kentucky, Maryland, New Jersey, North Carolina, Ohio, Virginia, and West Virginia.
Advance Stores Co., Roanoke	Auto supply	46	North Carolina, South Carolina, and Tennessee.
Joe, The Motorists' Friend, Inc., Harrisburg, Pa.	do	25	Maryland, Pennsylvania, and West Virginia.
Market Tire, Inc., Rockville, Md.	do	8	District of Columbia and Maryland.
Taubman's, Inc., Baltimore, Md.	do	13	Maryland.

WASHINGTON

Tanne-Arden, Inc., New York, N.Y.	Clothing	36	Arizona, California, Colorado, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Oregon, Texas, Utah, and New York.
Dundee Smart Clothes, Inc., New York, N.Y.	Clothing and furnishings	15	California, New York, Pennsylvania, Texas, and Utah.
Roe Bros. Stores, Inc., Beverly Hills, Calif.	Shoes	46	Arizona, California, Colorado, Idaho, New Mexico, Nevada, Oregon, Texas, and Wyoming.
Madison Lumber & Mill Co., Spokane, Wash.	Hardware	8	Idaho.
Jacqueline Shops, Portland, Oreg.	Clothing and furnishings	6	Oregon.
Heriman's Men's Stores, Portland, Oreg.	do	9	Do.
Zukor's, New York, N.Y.	do	16	New York, California, and Oregon.
Wallpapers, Inc., Oakland, Calif.	Miscellaneous	5	Oregon and California.
Sherman Clay & Co., San Francisco, Calif.	do	23	California, Oregon, and Washington.
Fonk's 5¢-\$1.00 Stores, Moscow, Idaho	Variety	13	Idaho and California.
Weisfeld's, Inc., Seattle, Wash.	Jewelry	32	California, Idaho, and Oregon.
Dick Tyrrell Jewelers, Inc., Oakland, Calif.	do	11	California.
Big "C" Stores, Portland, Oreg.	Food	20	Oregon.
Oregon Piggy Wiggly Co., Portland, Oreg.	do	32	Do.
Sigman Food Stores, Spokane, Wash.	do	15	Idaho and Oregon.
Pay N'Save Drugs, Inc., Seattle	Drugstore	12	Oregon.
Zapp's Drug Stores, Vancouver	do	9	Do.
Nordstrom's, Inc., Seattle	Shoes	18	California and Oregon.
Preservative Paint Co., Seattle	Miscellaneous	8	Oregon.
Cent-Wise Drug Stores, Lebanon, Oreg.	Drugs	5	Do.
Pay Less Stores, Portland, Oreg.	do	18	California, Oregon, and Idaho.
Conrad's, Inc., Denver, Colo.	Clothing and furnishings	11	Colorado, Idaho, Montana, Oregon, Utah, and Wyoming.
Hartfield Stores, Inc., Los Angeles, Calif.	do	45	California, Arizona, New Jersey, New York, Oregon, and Hawaii.

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WEST VIRGINIA

Company	Category	Number of stores	Other States of operation
Arlene Shops, Inc., New York, N.Y.	Clothing and furnishings	8	New York, Ohio, and Pennsylvania.
Retail Jenny Shops, Inc., New York	do.	20	Indiana, Ohio, and Pennsylvania.
Cranes-Mayos Clothes, Inc., New York, N.Y.	do.	40	Delaware, Georgia, Illinois, Indiana, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, and Virginia.
O. P. O. Clothes, New York	do.	34	Alabama, Arizona, California, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, and Virginia.
Beverly Shops, New York, N.Y.	do.	7	Kentucky and Ohio.
Broadstreet's, Inc., New York, N.Y.	do.	12	Illinois, New Jersey, New York, and Pennsylvania.
Ellay Stores, Inc., New York, N.Y.	do.	43	Illinois, Indiana, North Carolina, Ohio, Pennsylvania, Texas, and New Jersey.
Joy Stores, Inc., New York	do.	18	Indiana, Kentucky, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, and Wisconsin.
Krasner Bros., Inc., New York	do.	26	Kentucky, Maryland, Missouri, and Tennessee.
Collins Stores, Inc., New York, N.Y.	do.	24	Kentucky, Ohio, Pennsylvania, and Tennessee.
The Ormond Shops, Inc., New York	do.	34	Maryland, New Jersey, and Pennsylvania.
Carolina Lumber Co., Huntington, W. Va.	Hardware	6	Kentucky and Ohio.
Scott Lumber Co., Bridgeport, Ohio	do.	9	Ohio.
Siehler Furniture Co., Inc., Baltimore, Md.	Furniture	7	Maryland and Virginia.
Eckerly Millinery, Dayton, Ohio	Clothing and furnishings	5	Ohio.
Taggart Shoes, Inc., Portsmouth, Ohio	Shoes	10	Kentucky and Ohio.
Jay Roy Co., Inc., Harrisburg, Pa.	Jewelry	25	Maryland and Pennsylvania.
S. A. Meyer Co., Washington, Pa.	do.	15	Pennsylvania, New York, Ohio, and Maryland.
Lewis Furniture Co., Huntington	Furniture	5	Ohio.
Super Shoe Stores, Cumberland, Md.	Shoes	14	Maryland and Pennsylvania.
R. H. Hobbs Co., 5¢-\$1.00 Stores, Pikesville, Ky.	Variety	7	Kentucky.
Barr Stores, Inc., Covington, Va.	do.	6	Virginia.
Big Bear Stores Co., Columbus, Ohio	Food	31	Ohio.
Evans Grocery Co., Gallipolis, Ohio	do.	13	Do.
Morris Allon & Co., Pittsburgh, Pa.	Clothing and furnishings	18	Pennsylvania.
Fashion Hosiery Stores, Inc.	do.	32	Pennsylvania and Ohio.
Tazewell Supply Co., Inc., North Tazewell, Va.	Food	5	Virginia.
Hoge-Davis Drug Co., Wheeling	Drugstore	6	Ohio.
Majestic Paint Centers, Inc., Columbus	Miscellaneous	16	Do.
Silco Cut Price Stores, Inc., Philadelphia, Pa.	Drugs	50	Maryland, New Jersey, Pennsylvania, Delaware, North Carolina, and Virginia.
My Maternity Shop, Inc., Buffalo, N.Y.	Clothing and furnishings	45	Connecticut, New York, Ohio, Pennsylvania, and Ontario and Quebec, Canada.
Webster Clothes, Inc., Baltimore, Md.	do.	19	District of Columbia, Indiana, Kentucky, Maryland, New Jersey, North Carolina, Ohio, and Virginia.
Standard Auto & Radio Supply Co., Pittsburgh, Pa.	Auto supply	13	Ohio and Pennsylvania.
Miller's Auto Supplies, Inc., Harrisburg, Pa.	do.	15	Maryland and Pennsylvania.
Joe, the Motorists' Friend, Inc., Harrisburg, Pa.	do.	25	Maryland, Pennsylvania, and Virginia.
Gatling's Auto Stores, Connellsville, Pa.	do.	7	Pennsylvania.
Flemming & Flower, Marietta, Ohio	do.	5	Ohio.
The Abel Corp., Columbus, Ohio	do.	36	District of Columbia, Iowa, Indiana, Maryland, Michigan, Ohio, Pennsylvania, Texas, and West Virginia.
Lou's Auto Stores, Cumberland, Md.	do.	5	Maryland.

WISCONSIN

Jerrold's, Saginaw, Mich.	Clothing and furnishings	10	Michigan and Ohio.
Buttrey Stores, Inc., Minneapolis, Minn.	do.	23	Iowa, Minnesota, North Dakota, and South Dakota.
My Shop, Inc., New York	do.	41	Alabama, Georgia, Illinois, Indiana, Louisiana, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, and Virginia.
Linpark Clothing Corp., New York	do.	12	Iowa, Minnesota, Nebraska, New York, and South Dakota.
Brooks Fashion Stores, Inc., New York, N.Y.	do.	18	Illinois, New York, and Ohio.
Tradehome Shoe Stores, Inc., St. Paul, Minn.	Shoes	20	Iowa, Minnesota, and South Dakota.
Weiss & Neumann Shoe Co., St. Louis, Mo.	do.	50	Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, and Texas.
Crown Self-Service Shoe Stores, Inc., Chicago, Ill.	do.	38	Illinois, Indiana, Michigan, and Ohio.
Hurtle Bros. Shoe Co., Rochester, Minn.	do.	7	Iowa and Minnesota.
Maling Shoes, Chicago, Ill.	do.	31	Illinois, Indiana, Michigan, and Ohio.
Midland Shoe Co., St. Louis, Mo.	do.	38	Alabama, Arkansas, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, Oklahoma, and Texas.
T. G. Allin Co., Minnesota	Hardware	11	Minnesota.
Lincoln Stores, Inc., Atwater, Minn.	do.	46	Do.
Virginia Dare Stores Corp., New York, N.Y.	Clothing and furnishings	46	Alabama, Florida, Georgia, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Virginia.
E. G. Shinner & Co., Inc., Chicago, Ill.	Food supply	47	Illinois, Iowa, Michigan, Ohio, and Pennsylvania.
Estee Sleep Shops, Chicago, Ill.	Furniture	10	Illinois.
Leath & Co., Chicago, Ill.	do.	37	Illinois, Indiana, Iowa, Michigan, and Minnesota.
L. Fish Furniture Co., Chicago, Ill.	do.	11	Illinois, Indiana, and Ohio.
Factory Tile Warehouse, Inc., Cicero, Ill.	Miscellaneous stores	15	Illinois.
Bloch Daneman Co., Milwaukee, Wis.	Furniture	10	Maryland, Michigan, Ohio, and Pennsylvania.
C. J. Silver Jewelers, Inc., St. Paul, Minn.	Jewelry	9	Minnesota and Iowa.
Super Value Stores, Inc., Hopkins, Minn.	Food	11	Minnesota.
Arenz Shoe Co., La Crosse	Shoestore	6	Iowa and Minnesota.
Mathisen Tire Co., Duluth	Miscellaneous	7	Minnesota, Michigan, and North Dakota.
Mary Lester of Southern Wisconsin, Milwaukee	do.	20	Illinois.
The Muir Drug Co., Grand Rapids	Drugstore	28	Indiana, Michigan, and Ohio.
Oscro Drug Co., Chicago	do.	30	Illinois, Indiana, Iowa, Minnesota, and North Dakota.
Spyrison's Shoes, Inc., Des Plaines, Ill.	Shoes	8	Illinois.
Western Tire Auto Stores, Inc., Chicago, Ill.	Auto supply	48	Illinois, Indiana, and Michigan.
Equitable Millinery, Chicago, Ill.	Clothing and furnishings	25	Illinois, Indiana, Iowa, Kentucky, Michigan, and Ohio.
Benson & Rixon Co., Chicago, Ill.	do.	11	Illinois and Indiana.
Joy Stores, Inc., New York	do.	18	Indiana, Kentucky, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, and West Virginia.

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WYOMING

Company	Category	Number of stores	Other States of operation
L. Goldman Shoe Co., Denver, Colo.	Shoe	5	Nebraska, Colorado, and South Dakota.
Roe Bros. Stores, Inc., Beverly Hills, Calif.	do	46	Arizona, California, Colorado, Idaho, New Mexico, Nevada, Oregon, Texas, and Washington.
Rollnick Shoe Co., Denver, Colo.	do	9	Colorado, Idaho, and Utah.
S. A. Foster Lumber Co., Lincoln, Nebr.	Hardware	9	Colorado and Nebraska.
L. B. Murphy Co., Scottsbluff, Nebr.	Variety	8	Nebraska.
Food Centers, Inc., Hastings, Nebr.	Food	8	Do.
Sawyer Stores, Inc., Billings, Mont.	do	13	Montana.
Union Distributing Co., Salt Lake City	Miscellaneous	5	Utah.
Sweetbriar Shops, Inc., Denver, Colo.	Clothing and furnishings	48	Arizona, Colorado, Idaho, Montana, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Utah.
Conrad's, Inc., Denver, Colo.	do	11	Colorado, Idaho, Montana, Oregon, Utah, and Washington.
Bienbaum & Son, Rapid City, S. Dak.	Auto supply	8	South Dakota.
Stickney's Inc., Sterling, Colo.	do	10	Colorado and Nebraska.

Mr. MORSE. Mr. President, will the Senator from Michigan yield?

Mr. McNAMARA. I am glad to yield.

Mr. MORSE. I wish to ask the Senator from Michigan two or three questions; but before I ask them, I wish to say, as a colleague of his on the Subcommittee on Labor, that he is deserving of the thanks of not only the subcommittee and the full Committee on Labor and Public Welfare, but also of the entire Senate, for his leadership in piloting the bill through the hearings of the subcommittee and through the full committee. I assure the Senator from Michigan that I know whereof I speak when I speak in behalf of my colleagues on the Committee on Labor and Public Welfare in expressing my appreciation to him for his leadership on the bill. I want the Senator from Michigan to know that I am at his service in any way I can be of assistance to him in the course of the debate which we are now starting on the bill.

The Senator from Michigan said in the latter part of his remarks that the bill was very similar to the bill which the Senate passed last year. I know from what the Senator has said this morning, as well as from my work with him, that the Senator from Michigan agrees with the Senator from Oregon that it is regrettable that the scope of the bill is not even broader than it is; that it really ought to cover a good many groups of workers throughout the country who specifically are exempted from the bill. Is not that a fair statement of the Senator's position?

Mr. McNAMARA. It is certainly a fair statement. However, I think the position of the administration, the Secretary of Labor, and the Committee on Labor and Public Welfare is a reasonable one. The bill, I repeat, is moderate; and it seems that in the 1960's this is a step which should be taken. It is not a giant step, but it is at least a step in the right direction.

Mr. MORSE. That leads me to the next question, because I think that at the very beginning of the debate this point ought to be very clearly emphasized in the RECORD. The Senator from Michigan has pointed out that the bill comes to the floor of the Senate with the recommendation of the Kennedy admin-

istration, which means the recommendation of the President and the recommendation of the Secretary of Labor. That is true, is it not?

Mr. McNAMARA. That is certainly true.

Mr. MORSE. The Senator agrees, does he not, that the administration has offered the bill because they think it is a moderate and modest bill, a bill that at least constitutes a step forward? It will help to establish, once again, the principle that all the people of the country who in fact are working in the field of interstate commerce should eventually be covered by the Fair Labor Standards Act. But as of now, this measure represents a coverage step forward which, in the opinion of the administration, can be accomplished without in any way disrupting the economy; in fact, it will strengthen the economy. Does not the Senator from Michigan agree?

Mr. McNAMARA. I certainly agree with that conclusion.

Mr. MORSE. Does the Senator from Michigan also agree with me that, really, every businessman in the Nation ought to be urging the enactment of this bill, because it is another piece of legislation which, when put into operation, will, in effect, strengthen the Nation's economy and really will be of great help to the ringing of cash registers on the main streets of the Nation?

Mr. McNAMARA. I certainly agree with the Senator from Oregon that that is one of the prime purposes of the bill.

Mr. MORSE. I only wish to comment in regard to that matter by saying that there has not been, I am pleased to report—at least, there has not been from my State, and I think the same probably is true of other States—such an opposition to the present proposal to extend the Fair Labor Standards Act, as represented by this bill, as we experienced in times past when we proposed amendments to that act. I attribute that situation to the fact that more and more of the country's businessmen are beginning to recognize that such legislation in the long run accrues to their great economic advantage.

The Senator from Michigan will recall that in the early days, when we proposed social security legislation, there was great opposition, which was stirred

up among the business groups in the country. But, today, when we speak—as I have done on many occasions—to chamber of commerce groups and to business groups, and when we ask them, "Would you like to have the Social Security Act repealed?", not even 10 percent of them would favor its repeal, because almost all of them now realize that that act has accrued to the advantage of both large business and small business throughout the country.

Has not that been the experience of the Senator from Michigan, when he has talked to businessmen?

Mr. McNAMARA. I think more and more that is true. In other words, by means of this bill we shall add about \$3 billion of cash money, which will immediately go into the cash registers of the business communities.

Mr. MORSE. This measure is one way to provide, quickly, additional purchasing power to the consumers, is it not?

Mr. McNAMARA. That is correct.

Mr. MORSE. And that will be advantageous to all those who today are underpaid and are not receiving decent wages. The enactment of this bill will result in making available to them more food, more clothing, funds for the payment of medical expenses, better housing—in short, it will help them provide a more decent living for the members of their families. Does the Senator from Michigan agree with me that that will be one of the direct and immediate results of the enactment of this measure?

Mr. McNAMARA. That is certainly true.

Mr. MORSE. Does the Senator from Michigan recall that when there was waged in the Congress the battle for the enactment of unemployment insurance legislation, again, in the first stages of those legislative contests, we were confronted with the fact that there seemed to be a great drive by business groups in the country against the enactment of such legislation? But, today, if the repeal of that legislation were proposed, one of the groups which could be counted upon to provide great opposition to such a legislative proposal would be the business groups themselves, because they realize that that legislation has served as a great stabilizer in communities hit by unemployment.

Does the Senator from Michigan agree with me that that is now the changed reaction on the part of a large segment of American business?

Mr. McNAMARA. I think perhaps the Senator from Oregon overstates the matter a little. But certainly they are getting away from the old closing of the mind in regard to any such theory. They now go along to a great degree, and I think more and more go along from year to year.

Mr. MORSE. Well, I have overstated it, if the Senator from Michigan interprets my remarks as extending to the Chamber of Commerce of the United States and the National Association of Manufacturers.

Mr. McNAMARA. Yes.

Mr. MORSE. I am not talking about the attitude of propaganda organizations on the part of business. I am talking about businessmen—the small businessmen, all the businessmen who recognize that, after all, their cash register receipts are dependent upon the purchasing power of their potential customers. I am satisfied that such businessmen now realize that welfare legislation, such as the Unemployment Insurance Act, helps stabilize the purchasing power of the consumers in their localities.

Mr. McNAMARA. We have made great gains in that attitude, I am sure. But I think too many still are blinded by the propaganda they are constantly fed by the organizations the Senator from Oregon has mentioned.

Mr. MORSE. I understand that.

I wished to make this point very early in this debate, because I know there will be a contest in regard to this bill.

But I believe my colleagues here should take note of the fact that, first of all, this bill is very strongly advocated by the administration; and the bill deals with a subject matter which, I respectfully submit, is resulting in a great change of attitude among the business interests of the country themselves, because they are beginning to realize that, after all, a sound economy is dependent on the payment of decent wages to the consumers, if American business itself is to prosper.

Mr. McNAMARA. I agree.

Mr. MORSE. I wanted to emphasize that point.

Mr. President, I wish to congratulate the Senator from Michigan on the very able speech he has just now presented to the Senate as the opening argument in support of the administration's minimum wage bill.

Mr. McNAMARA. I thank the Senator from Oregon for his very kind remarks.

Mr. President, will the Chair state the number of amendments which would be in order to the pending committee amendment, which is in the nature of a substitute for the bill?

The PRESIDING OFFICER. The committee amendment is in the nature of a substitute. In such case, under the precedents of the Senate, the substitute language for the purpose of amendment is considered as original text, not as an amendment in the first degree. Therefore, the substitute is subject to amend-

ment in two degrees—either by perfecting amendments or by other substitute amendments.

Mr. McNAMARA. I thank the Chair.

Mr. President, I yield the floor.

Mr. HOLLAND. Mr. President, what I shall have to say in the next few minutes will not be in support of any amendment, either pending or to be pending, nor will it be in connection with any consideration of the details of this bill.

The unfortunate fact, Mr. President, is that this bill has been so hurriedly presented to the Senate and to the public that no one knows what is in it, except the members of the committee who yesterday reported it to the floor of the Senate. No one else knows what is in the committee report of 111 printed pages, and now placed on the desk of each Senator, because as late as 9:50 o'clock this morning it was not available; and therefore those who have strong convictions in regard to some of the features of this bill have not had any opportunity whatsoever—

Mr. McNAMARA. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I shall yield in a moment.

As I was saying, Mr. President, under these circumstances, those who have strong convictions in regard to some of the features of the bill have not had any opportunity to know what is contained in the committee report or what is contained in the bill itself.

Mr. President, I have such convictions; and I have drawn certain amendments, or have had them prepared by the drafting counsel for the Senate; but I have been told—since the bill was filed yesterday afternoon—that those amendments may have to be redrafted, and that certainly the principal one will have to be redrafted, in order to accommodate itself to the changed wording of the bill.

So the Senator from Florida deeply regrets the haste and the hurry, which undoubtedly has been occasioned, in some respects, by the fact that the lords of labor also have been pushing so actively for its consideration, that the rule which usually prevails, to give Members of the Senate an opportunity to know what is in proposed legislation and what is in reports, has not been followed.

I yield to the Senator from Michigan.

Mr. McNAMARA. Mr. President, let me say to the Senator from Florida that we recognize that an unlimited amount of time could be used in studying and proposing amendments and revising proposed amendments, but I arose particularly to point out to the Senator that the printer did a marvelous job, and the report was available at 9:30 this morning in the cloakroom and the Chamber.

There is very little in the report that is new. We have considered this subject year after year. I am sure there is no need for any great amount of study by the average Senator.

It is the customary procedure that we get printed reports, many times much more numerous in number of pages than this one, on the day that a measure is made the pending business. I think this is not unusual procedure. I, too, regret that we do not have more time, but we

are under pressure from many sources—the President of the United States, the administration, and the leadership of the Senate, particularly the minority side—to act as expeditiously as possible. As chairman of the subcommittee of the Labor and Public Welfare Committee, I am glad to point this out to the Senator from Florida, since he raised the question.

Mr. HOLLAND. I appreciate the courteous statement of the distinguished chairman of the subcommittee. If he says the committee report was available at 9:30 this morning, I am glad to hear that statement. The Senator from Florida, at 10 minutes before 10, consulted the committee staff and was told that the committee reports were not yet available at the committee office. The Senator from Florida made careful note of the time. He thought he was going to the proper place to obtain the committee report, and he was advised that the report was not available.

If the report was available 20 minutes earlier, the Senator from Florida will drop his sights and say that at 9:30 this 111-page report was made available for the first time. So Members of the Senate who had not had the advantage possessed by the distinguished chairman of the subcommittee, and who had not had the advantage of hearing the statements made by witnesses and whatever argument was made before the subcommittee, and then the whole committee, before the bill was reported, did not have an opportunity to know what the bill was all about.

The Senator from Michigan will remember that the Senator from Florida showed enough interest in this measure to appear on the first day of the hearings on the bill, which was, I believe, on February 28.

The bill pending before the committee at that time was a substantially different bill from the one now presented. The Senator from Florida understands that the distinguished Senator from Michigan offered a substitute bill later, and that the committee effected some changes in the substitute bill. So the bill with which the Senator from Florida tried to make himself reasonably familiar at the time of giving his testimony—because he knew he would be subjected to searching questions from the Senator from Michigan and other members of the committee—is in limbo. It is gone. The Senator from Florida does not know what changes were made, but at least the Senator from Michigan knows, because he offered a substitute bill, and then he attended the sessions of the subcommittee and of the committee, and he knows the changes that were made in the bill.

The Senator from Florida, without any apology to anybody, says it is unfair and unreasonable and not in accord with the accustomed practice of the distinguished majority leader and of the policy committee to force the issue on a question of this seriousness, involving a report of 111 pages, and a bill of 38 printed pages, without giving other Senators the opportunity which has been enjoyed by Senators who handled the bill, but which is

being denied to all other Members of the Senate.

There is no justification for that kind of practice. It is not in accord with the soundest traditions and the best practice that heretofore have been followed.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield to the distinguished majority leader.

Mr. MANSFIELD. I think the Senator from Florida will recall that, about 2 or 3 weeks ago, the leadership announced, after consultation with the distinguished minority leader, and members of the Committee on Labor and Public Welfare, as well as with the distinguished Senator from Arizona [Mr. GOLDWATER], who is also a member of the Committee on Labor and Public Welfare, that it was anticipated that the bill now before the Senate would be marked up on either Monday or Tuesday of this week. The committee met on Tuesday and ordered the bill reported on that day. On Tuesday, also, after the bill had been ordered reported, there was a meeting of the policy committee. The question of bringing the bill to the floor was discussed, and the policy committee unanimously gave its approval to the majority leader to bring the measure to the floor.

It was stated, also, 2 or 3 weeks ago, that it was anticipated the bill would be brought to the floor on a Wednesday or Thursday following the markup of the bill by the Committee on Labor and Public Welfare and the committee's report on the measure.

So I think ample notice was given. I think the leadership has kept its word. Certainly, so far as concerns any alleged effort to rush consideration of this legislation in any manner or form, so far as this Senator is concerned, there has been absolutely no pressure on the part of labor leaders, to whom the Senator from Florida referred previously during the course of this debate; and, so far as I know, no pressure has been put on any other Senator to bring the legislation to the floor at this time. It is here, and I will take full responsibility. I brought it up after full consultation with the minority leader and also after getting approval of the policy committee of the Democratic Party.

Mr. HOLLAND. I am glad to have the statement of the distinguished majority leader appear in the RECORD at this point. I have no doubt he states the situation as far as he understands it. So far as pressure from labor leaders is concerned, the Senator from Florida knows something about that from his own knowledge, because he knows of delegations from labor groups in other States. A delegation of about 25 came from his own State and endeavored to prevail on the senior Senator from Florida and his distinguished colleague the junior Senator from Florida [Mr. SMATHERS], as well as House Members from Florida, to support the bill. The Senator from Florida knows, from what has appeared in the press, that the same kind of "working over" has been used generously and generally on other Members of the Senate and of the House. So it is

rather idle to say there is no such constant and determined and reiterated pressure from the lords of labor, because they have been pressing for this legislation; and the pressure did not begin with this session.

With reference to the time factor which is involved, I point out that the leadership desired yesterday to make the bill the unfinished business. The Senator from Florida was advised of that yesterday afternoon while the Senate was in session. The bill had been ordered reported, but was not available in printed form. I do not believe the report had been filed at that time, and certainly the report was not available in printed form. The Senator from Florida was advised that it was the intention to make the bill the unfinished business by appropriate notice yesterday afternoon.

The Senator from Florida gave notice at that time that if such an effort were made, in the interest of fair play, to give other Senators and himself an opportunity to know what was in the proposed legislation and what was in the report, he would raise the point of order, regretfully, that the bill was not in such condition as to be made the unfinished business.

There is no question at all about the haste, about the speed, and the impulsive effort which is behind the presentation of the bill at this specific time. It is completely idle for anyone to claim otherwise, because I have stated the facts, as they are well known to the Senator from Montana.

Mr. MANSFIELD rose.

Mr. HOLLAND. I yield to the majority leader.

Mr. MANSFIELD. Mr. President, in answer to what the distinguished senior Senator from Florida has said, I admit, gladly, that it was the intention of the leadership, if possible, to have the bill made the unfinished business at the conclusion of the session yesterday.

Mr. HOLLAND. It was the intention to make the bill the unfinished business?

Mr. MANSFIELD. Yes.

Mr. HOLLAND. I thank the Senator.

Mr. MANSFIELD. I point out that, had that been done, we would be in exactly the same position today in which we now find ourselves. The purpose was not to impose haste upon the Senate. The bill is the only measure on the general calendar. By placing this proposal before the Senate at the end of the session yesterday, we would have been ready to embark upon its consideration at the conclusion of morning business today, as we are doing at the present time.

Really, no attempt was made to push the Senate, and no attempt will be made to push the Senate. I know a little about the Senate, and I recognize that that would be an impossibility.

I think the RECORD should show that we have not acted in haste. We have tried to give ample notice ahead of time. The mere fact that I should have liked to have the bill made the unfinished business yesterday at the conclusion of the legislative day does not

indicate haste, but instead indicates a facing up to the situation of having only one bill on the calendar to be considered on the following day.

Mr. HOLLAND. Mr. President, I appreciate the able statement of the distinguished majority leader. I note there is no difference of opinion between the Senator from Montana and me as to the facts. The facts are established. I am perfectly willing to have anyone who reads the RECORD decide whether there has been unseemly haste in this regard. It is the opinion of the Senator from Florida, for which he alone is responsible, that there has been not only haste, but unseemly haste.

Mr. President, the secretaries for the majority were advised yesterday that the Senator from Florida had certain amendments to offer, and that he had not been able even to obtain a copy of the bill. The Senator from Florida was told by the drafting counsel for the Senate that his amendments would have to be redrafted in order to meet the new wording of the bill as reported, and the Senator felt he was entitled to an opportunity to see the bill, to see the report, and to have some personal part in redrafting the proposed amendments before the issue came to a head.

It is with regret that the Senator from Florida must advise the Senate, and state for the RECORD, that he has not been given any such an opportunity. Right now the Senator from Florida should be away from the Chamber working on a redraft of the proposed amendments. The RECORD should show that the Senator from Florida has been denied the opportunity, and that other Senators in similar situation have been denied the opportunity, by the haste, which the Senator from Florida thinks is unseemly haste and unfortunate haste, in hurrying the bill to the Senate and into general debate.

I do not attempt to argue the bill in detail at this time. I have already said I was unable to obtain a copy of the bill yesterday or this morning until coming to the Senate Chamber. I was unable to obtain a copy of the report yesterday. I was advised at the desk that the report had not been filed. I do not know when the report was filed. It was certainly filed after the Senate adjourned yesterday.

Mr. McNAMARA. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield to the Senator from Michigan.

Mr. McNAMARA. Most definitely the report was filed with my statement yesterday, and not after the Senate adjourned.

Mr. HOLLAND. The report, with minority views?

Mr. McNAMARA. Both.

Mr. HOLLAND. I thank the Senator for his kindness. Certainly the Senator does not deny there was no copy of the report available to Senators generally.

Mr. McNAMARA. That is correct.

Mr. HOLLAND. I think the Senator said that at nine-thirty this morning printed copies of the report became available in the Senate.

Mr. McNAMARA. The Senator is correct.

Mr. HOLLAND. I thank the Senator. I think that is a fact well established. We need not go back to plow that ground again.

Mr. President, for the RECORD I wish to say there are present in my office now, I daresay—they were in my office when I left a while ago—two different agricultural groups, who are deeply concerned about provisions which appear in the bill which will affect them vitally. These groups are asking conferences with the Senators from Florida and with Senators from other agricultural areas, particularly those areas which produce perishable agricultural products. As yet we have had no opportunity to have anything like a satisfying conference with those people, or to know in detail what they wish, or to know in detail how their desires can be stated in amendments which would be applied to the bill under consideration.

Without discussing those particular questions in general, I understand there is in the bill a proposed change with respect to the time-honored seasonal exemptions for certain processors and handlers of highly perishable crops, like fruits and vegetables, which have been in vogue, I believe, ever since the original act was passed years ago. They certainly were in vogue when the Senator from Florida practiced law many years ago in his own State.

The Senator from Florida now understands those long-established, time-honored, well-tried and accepted seasonal exemptions for those who process highly perishable fruits and vegetables—which happen to be the agriculture products of his own State largest in volume, in value, and in concern—are now sought to be adversely affected, by being reduced.

Mr. McNAMARA. Mr. President, will the Senator yield?

Mr. HOLLAND. I will yield to the Senator in a moment.

The Senator from Florida thinks it is a matter of courtesy that he and other Senators in like situation should be allowed at least some time to sit down with their own constituents, who have their own problems in this field, and who know that neither of their Senators was accorded the privilege of being a member of the committee which considered and reported the bill, simply to give an opportunity to know what the people think they need in this situation in regard to amendments to the bill.

I think it is only fair dealing that the Senators from Florida should be given the opportunity to sit down with their own constituents, before the bill is considered by the Senate.

I see the distinguished Senator from Arizona [Mr. GOLDWATER] is present in the Chamber. Some of the people who were in my office were from his State, or from the State of California. They were members of the joint groups representing vegetable and fruit production. Some of the people, as I understood, were from the State of Texas.

Wherever these people came from—they might have come from Michigan, though I do not believe any did in this

particular case—they are entitled to have an opportunity to confer with their Representatives and with their Senators, who must speak for them if they are to be spoken for, so that their attitude toward proposed legislation, which they have never seen but have simply heard about, can be understood by those who represents them.

If that is unfair, Mr. President, the Senator from Florida does not know what it is to be fair.

I yield to the Senator from Michigan.

Mr. McNAMARA. In reply to the point the Senator raises, there has been no substantial change in the agricultural section of the proposed legislation from the time the Senator appeared before the committee. In fact, there has been no substantial change since the first bill was introduced this year. There has been some change in the language, and the Senator certainly has the right to look it over and to fit it into his proposed amendments. I am sure there is plenty of time.

No Senator is pressing for action on the bill today, possibly tomorrow, or some other day. There is no danger that the bill will be passed in the next 10 or 15 minutes or any similar short time. Certainly the Senator will be accorded all the time he wishes. So far as I am concerned, as chairman of the subcommittee, and in charge of the bill on the floor, I can assure him that he will have time to take care of the point which he raises.

Mr. HOLLAND. Mr. President, I thank my friend from Michigan for his generous treatment of me. I hope there will be an adjournment today early enough so that the Senator from Florida and others in like situations will have an opportunity to talk with their constituents who are here waiting, before we are forced into the offering of amendments which may or may not meet the situation.

I believe the Senator from Michigan can see what our situation is. We do not have the benefit of the day-by-day familiarity with the measure which the Senator from Michigan has had, at least since February 28, which is 6 weeks ago or thereabouts. I believe we are entitled to an opportunity to study the bill, not only for our own information, but for the information of our people who are so directly affected, or who think they are directly affected. They have not yet seen the provisions of the bill, unless they have seen the bill since the Senator from Florida came to the floor of the Senate at 11 o'clock this morning. But they will probably now be able to go into conference on this subject.

The Senator from Florida is relieved also to hear the rather generous statements of the Senator from Michigan that he will not call for a vote on the bill within the next 15 minutes or a similarly short period, because the Senator from Florida hoped to speak not only at the beginning of the general discussion and to discuss the detailed merits of the bill, with much of which he is familiar, but also he hoped to speak on certain amendments, one of which is an amendment with respect to which the

Senator from Florida has some background.

In 1949, in the very committee so ably represented by the Senator from Michigan [Mr. McNAMARA] upon the floor today there was a disposition to enlarge the coverage of the original Wages and Hours Act so as to bring in the Main Street merchants, laundries, automobile dealers, agricultural equipment dealers, restaurants, hotels, and other businesses, which had always been regarded as local businesses. We had the opportunity at that time to argue and we argued the problem in detail, after having had the opportunity to see the formula advanced by the committee at that time. When the public realized what was contained in that formula and what was involved, and that businesses would be deprived of long-established exemptions, long-established rights, and an opportunity to operate in accordance with the customs, traditions, wishes, and desires of the people whom they serve in every community in the Nation, the amendment was agreed to. Since 1949 that amendment has been a part of the law of the land in this field, and I think it has been a very wholesome part of the law of the land.

The Senator from Florida wishes to have time to redraft that amendment. As he understands, the amendment would not apply to the present bill, but he will redraft it in such a way that it will apply so as to bring out exactly the same results by way of exemption; and he believes he is entitled to the opportunity to do so.

This unseemly haste is not characteristic of the Senate or its best traditions, because in the approximately 15 years that I have been in the Senate, the Senate has always been considerate of the fact that Senators represent sovereign States and the people of those States, and have the right to confer with their constituents and find out what their problems are and how they would be adversely affected or interested, as the case might be, in various phases of the bill, and to determine after such study what positions Senators should take so as best to serve their own people.

Without dwelling on that point at this time, let me say that I think there are two general reasons why the proposed legislation is unfortunate in the extreme, and why I regret that it has been brought up, either hastily, or with insufficient deliberation to enable Senators to understand it. I believe it is well to make these points at the beginning of the debate.

In the first place, I believe the proposed legislation would be unwise, because it would conflict definitely with three great national objectives which have been announced as such by our new President, and which are known from one end of the Nation to the other. They are objectives which I think our Nation should be subserving in every way possible.

What are they? One objective is to attempt to bring some relief to the unemployment situation and to get people back to work. Without belaboring this question, I remind Senators that even

the former Secretary of Labor in the preceding administration who very strongly supported the proposed legislation, or something like it, and who supported an earlier amendment submitted some years before, admitted in the hearings upon the proposed legislation, which we considered last year, that those amendments—much less sweeping than those which I understand are included in the present bill—had brought about additional unemployment in certain quarters.

So we have proposed legislation which is much broader in coverage, which would bring about more unemployment, and which by that very fact would conflict very definitely with one great objective, which is not merely an objective of the present administration, as announced by the President himself in his message on the State of the Union and on various occasions since, but which has already been followed by the Senate in several items of legislation which have been passed, and by the executive department in certain problems which have been handled by way of executive orders.

Let us not be blind to the fact that the proposed legislation runs counter to all the efforts being made—and they are regarded as extremely necessary efforts in the strengthening of our Nation at this critical time in our history—to bring about greater employment and to do away with the current, still severe unemployment.

Mr. GOLDWATER. Mr. President, will the Senator yield at that point?

Mr. HOLLAND. I yield to the Senator from Arizona.

Mr. GOLDWATER. I was interested, during the colloquy between the distinguished Senator from Oregon [Mr. MORSE] and my friend from Michigan [Mr. McNAMARA] in statements to the effect that the proposed legislation would greatly help the economy by increasing purchasing power. I believe that at the outset of the debate we should recognize that any increase in wages by government fiat can only mean increased costs.

There are two sides to a wage increase. Wages are not only a benefit to the recipient; they are also a cost to the employer. When wages are increased under natural influences, costs remain in balance. When wages go up by Government fiat, and are not arrived at by operation of natural forces, costs at the same time must increase.

For example, in a retail business the historic relationship of cost of labor to the cost dollar is roughly 57 or 60 percent, depending upon the size of the business. If this ratio is to be maintained, as wages are forced up by Government edict, prices must go up. I believe it can be amply explained that while there was a period of 4 years of fairly stable prices prior to 1956, when the minimum wage was increased, the cost of living started to rise. I will not say that the minimum wage was the major contributing factor, but it was a contributing factor, and I believe the proponents of the proposed legislation must recognize that any increase in wages at the bottom would be reflected in unnatural increases in

wages all the way up the line, which would result in higher costs.

So my question to my friend from Florida is this: Would we really do the affected people a favor by raising their wages through unnatural increases, since in 1 year or less the raise would be more than wiped out by increased costs?

Mr. HOLLAND. Mr. President, in answer to my friend from Arizona, all I can say is that from my understanding of the way the laws of economics work, we can certainly expect increased costs; we can certainly expect greater unemployment; and we can certainly expect reduced purchasing power of the dollar.

Those things go together. I shall deal with them next. The Senator from Arizona has correctly stated maxims in the field of economic learning and understanding, which no one can successfully debate. I thank him for his contribution.

Mr. GOLDWATER. I should like to make one more point.

Mr. HOLLAND. I yield to the Senator.

Mr. GOLDWATER. I should like to impress on the Senator at the outset of this discussion that I was told by Mr. Goldberg, the Secretary of Labor, that passage of the bill would result in \$1,300 million being pumped into the economy. I have heard the statement made that the income might be as high as \$3 billion. I should like to impress upon the Senator from Florida that \$1,300 million is a little less than the value of one day's business in the United States. Therefore, the argument that the economy would be greatly affected by that amount of money being added to the economy is an erroneous argument. I would compare it with the effect of throwing a small stone into the ocean. Nevertheless, that is the argument that is being advanced by the proponents as to the effect of the bill on the economy.

I should like to make one further point, and that is that I have asked some of my good friends who are interested in the passage of the pending bill, if the surmise that \$1.25 would have the effect they claim, why not ask for a minimum wage of \$2.50, which is what George Meany said last year at one of the hearings—perhaps it was the year before—was needed in this country to sustain a family of four. In other words, if there is any economic soundness in the Federal Government setting the wage, I suggest that the proponents of the bill be honest with the American people and propose \$2.50 as a minimum wage. If the proponents are sincere in their desire to extend coverage to every American worker—and this was brought out during the colloquy between the Senator from Oregon and the Senator from Michigan—I suggest that they propose an amendment to do just that. Let us quit fooling around, so to speak, every year by chipping a little more and more as we go along. Let us be honest and suggest a minimum wage of \$2.50, with no exemptions whatever.

Mr. HOLLAND. I thank the Senator from Arizona for his helpful comment.

The second point I wish to call attention to, and which I believe runs counter

to one of the most important objectives which we now have to fulfill in this Government, arises from the fact that our prices must be competitive in the export markets. At the same time, we find that item after item is being priced out of the world markets. The President in his state of the union message referred to that objective. He stated that he wanted very much to have our competitive position restored in world markets.

We must realize, Mr. President, that with the passage of the proposed legislation we would be running not toward that goal, but, instead, far away from it. I say that because increased prices mean increased costs, and increased costs mean pricing ourselves out of the world markets.

I call attention to the fact that it is admitted by every expert on labor and by every labor economist that I know of, or whose statements I have read, that an increase in the minimum wage means an increase in the wages which result from collective bargaining and that it means increases all the way up. The distinguished Senator from Illinois [Mr. DOUGLAS] made a statement to that effect, as I recall, in committee. He stated that there was a distinct relationship between the level at which the minimum wages were fixed and the level at which wages in industry and elsewhere, based on collective bargaining, were fixed. That simply means that those who are already handicapped in selling in the world markets will be further handicapped, as well as with respect to other things which we are still able to sell, and as a result we will find ourselves in very bad shape indeed.

Therefore, Mr. President, we are running counter to the objective held up by our President, toward which we have already been passing some legislation. How long will we continue to think that we can run up a hill and down the hill the same distance and make any progress?

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. GOLDWATER. Mr. President, I should like to suggest two points to the Senator from Florida. The first point is that at the present time there are 300,000 people out of work in the textile industry in this country because of foreign competition. I am sure the Senator from Florida knows that one out of every eight industrial workers in the United States works in an industry which is related to the textile industry. The situation is growing worse, instead of better. Passage of the pending bill might be another contributing factor in this respect.

Another point is that in many bargaining agreements today it is stipulated that when the minimum wage is increased, bargaining shall be undertaken to increase wages in the bargaining unit. That has been related as late as in yesterday's newspaper accounts. It is an established part of many bargaining agreements. I cannot put my finger on the testimony at this moment, but I will find it before the day is over. It was testified in the committee by a labor

leader that the minimum wage is the base on which the parties can bargain. The other wages will have to go up, because the differential involved must be maintained.

I sometimes suspect that an effort is being made to slowly set a standard wage for every worker across the country, with every worker being paid the same wage, regardless of his ability or earning capacity. At the present time we must realize, in acting on the proposed legislation, that we are affecting not merely the million and a half people who will be affected by the bill, but also every other wage earner in the United States. This is being done at a time when costs must be kept down. President Kennedy has asked several times that costs be kept down. If we follow through with this proposed legislation we will ourselves be responsible for increased costs in American industry at a time when we can poorly afford it, in view of our situation vis a vis competition from foreign nations.

Mr. HOLLAND. I thank the distinguished Senator from Arizona. I appreciate his using such kind words to remind the Senator from Florida about this, that, or the other thing. The Senator from Florida does not have the deep grounding in this subject matter which is possessed and used so effectively by the Senator from Arizona. The Senator from Florida has represented in his time a good many businesses, and at the present time he represents a State which has quite a wide rainbow of industry. He knows that the remarks made by the Senator from Arizona completely apply to many industries. The Senator from Florida is well advised, and he thanks the Senator from Arizona for his comments.

Mr. President, the third point I wish to mention is the one which was so ably made by the President in his annual message on the State of the Union, when he called attention to something which every thinking person in America should give serious attention to, namely, the imbalance of payments under which we are paying out more and more of our precious reserves with each passing year. The President said he would guarantee that we would have a stable dollar, and that the objective of stabilizing our dollar was the bringing about of immediate relief from the imbalance of payments, from which we were suffering. I pay tribute to the able President and his coworkers for having accomplished some of the things which will help in that field, particularly in their dealings with West Germany.

I think Congress is entitled to some credit in this field for having passed two of the bills suggested by the President to deal with this subject matter. I think it is timely now for us to stop, look, and listen, and realize that the path down which the Senator from Michigan [Mr. McNAMARA], able and sincere as he is, would have us go running, in the haste of the consideration of the bill, does not lead to that objective at all, but leads, instead, to further instability, to greater inflation, and to a worsening of our relationships with friendly nations and a worsening of the imbalance of our

payments in the course of our dealings with other nations.

Without seeking to deal exhaustively with these subject matters at this time, I think that as we are beginning to consider a bill of very vital concern to every person in the Nation, attention might well be called to some of the objectives which are so necessitous, which we are trying to accomplish, and toward which we have had the finger of executive government pointed as things which we should strive to accomplish. We are being asked to run in the reverse direction by the passage of this unfortunate measure.

In addition to the unwisdom of the legislation as proposed, because of the conflict with these three points, I shall call attention to another general objective, and then I shall be finished with my original short discussion; that is, the complete injudiciousness of extending the coverage of Federal activities at a time when every Member of the Senate and of the House of Representatives knows, and when most thinking people know, that we are already overburdened because our Federal Government is too big. The affairs of Government have already been centralized too greatly in Washington, much beyond what was intended at any time by the Founding Fathers, and much beyond what we can do, and do well. I call attention to some of the factors, as briefly as I can.

The Nation is growing bigger and bigger in population. The United States now has more than 180 million people, contrasted with little more than 3 million when our Nation began its existence, and with approximately 150 million in 1950.

In the second instance, geographically the coverage of the Nation has been greatly increased, as has also the variety of the areas which are included within it. In the past decade, Alaska and Hawaii have been brought into the Union. It is idle for anyone to think or say—and I do not believe any Senator will say so on the floor—that the problems of Maine and California have much similarity, one with the other; that the problems of Florida and Alaska have much similarity, one with the other; that the problems of Virginia and Hawaii have much similarity, one with the other; because life is so different in those various farflung parts of our great Nation that the problems—a large part of them; many more of them than was the case when the United States was a small Nation—vary with the region and with the area. The idea of trying to impose regimentation from Washington, the Federal source of government, which will be adequate, sufficient, and satisfactory in covering a Nation as great as ours geographically, and as varied as it is from every standpoint one can imagine, becomes more and more unwise instead of more and more wise.

The third factor to which I call attention is that the Federal Government, whether we want it to be so or not, has increased greatly in size because of factors beyond our control. New fields of activity which require Federal regulation have come into the realm of human events: aviation, radio, television, atomic

energy. We could continue to name the new developments which American genius or the genius of mankind generally has created, in which there are problems which transcend State or community lines, and which have required, for their efficient handling, the establishment of expensive and heavy Federal machinery, and the consideration of expensive, ponderous Federal legislation at every session of Congress, and almost from week to week during the course of every session.

Let us remember, too, that our world problems have increased so vastly that we are hardly comparable to the Nation of only a few years ago, which was largely concerned with the development of our own resources, and which left international affairs pretty largely to those nations which we trusted, and which we generally followed—Great Britain, France, or some other nation.

Now, whether we wish it so or not, we have become the leader of the free world. We have our farflung agencies, our embassies, our ministries, our legations, our military outfits, our military training groups, our economic groups, our aid groups in every part of the globe where we are permitted to go.

The great scope and the vast size of our world responsibilities and world activities are such that much more of the attention of Congress must be focused on those matters.

I see seated in the Chamber the able senior Senator from South Carolina [Mr. JOHNSTON]. He and I serve together, I am happy to say, in the Committee on Agriculture and Forestry. There was a time not many years ago when the connection between that committee and foreign affairs was remote—almost nonexistent. The distinguished Senator knows that now we are required to devote hundreds of hours of close study to the matter of how our abundance may be used in such a way as to assist in the solution of the world problems with which our Nation is confronted, and how we are trying to make an asset, rather than a liability, out of our abundance, as it sometimes seems to be when we look at our huge surpluses.

It is so in other fields of activity. I am also a member of the Committee on Appropriations. Whereas that committee used to deal with the armed services and the State Department when it considered international problems, now it is finding something international in almost every agency in our Nation which has to be studied and provided for. I shall not attempt to relate all those activities, but I shall mention one. The activities of the Department of Commerce are considered by a subcommittee of which I am the chairman. A large part of the activities of that Department now relates to foreign affairs. Other committees deal with other fields of activity.

The point I make is that the scope of our foreign obligations, our foreign responsibilities, and our foreign expenditures is now so vast that we need to spend more and more time upon them. I am voicing what I have heard dozens of Senators and Members of the House state to other Senators and Members of

the House, and to the public back home; namely, that the principal difficulty with which we are now confronted is the immense size of our Government; that there simply is not a mortal mind which can grasp all the details of our Government, no matter how conscientious one may be, no matter how many hours are spent, no matter how great the effort to do a good job; and we are doing a good job, because the scope of the Federal Government is so huge and so mighty and so all embracing that mortal mind, mortal time, and mortal intellectual capacity simply is not sufficient to do the job.

Why am I calling attention to these things at this time? Merely to have Senators review the fact that if ever there was a time when we should not be trying to increase the burdens of government, increase the jurisdiction of Federal law and our Federal machinery, and increase the jurisdiction of the Federal bureaucracy, it is now. This is the time when we should be trying to move in the opposite direction. Every thinking Senator knows that that is the case. Yet our ultraliberal friends seem to think that the more we change our coverage, the more we change our jurisdiction, the more we simplify, as they put it, our control of almost every activity one can think of, the better our government will be.

That is not a sound conclusion. The bigger our government, the more unwieldy, the more uneconomical, the more inefficient, and the more extravagant it becomes. Every Senator, in his own conscience and in the silence of his own heart, and in his own careful consideration of our problems—because I am certain that every Senator is a patriot—knows that what I am saying is true, and that the huge, overcrowded size of the Federal Government is probably the greatest handicap that we have to clean, decent, effective, and economical government.

Here we find our ultraliberal friends trying to put a foot in the door, trying to put a camel's nose under the tent, although not in an attempt to take over local businesses, instead, in the colloquy between the distinguished Senator from Michigan [Mr. McNAMARA] and the equally distinguished Senator from Oregon [Mr. MORSE], they expressed a prayerful hope that we may soon enlarge that trend, to the extent of taking over the local responsibilities and obligations. But, Mr. President, that cannot be done without enlarging the burdens which lie upon the Federal Government; and when that is tried, it simply leads to less efficient government—although today our Government is not very efficient; and it leads to less economical government—and certainly our Government is not now very economical; and it leads to more extravagant and more wasteful government, and I do not believe any of us wishes to have our Government go in that direction.

I close by reminding the Senate that in the light of what happened yesterday and in the light of what has been coming before the Committee on Aeronautics

and Space, of which I happen to be a humble member, we know that our problems worldwide are getting more serious, and are getting more difficult of solution, and are more entitled to our time and our energy and our best attention. However, today this measure would have us run in exactly the opposite direction.

Not one Senator has had an opportunity to do the kind of job he would like to do in connection with any of the committees to which he is assigned. Speaking for myself, with assignments only to the Appropriations Committee, the Committee on Agriculture and Forestry, and the Committee on Aeronautical and Space Sciences, I wish to say for the RECORD—and I think my situation is typical of that of every Senator—that I cannot begin to find enough time to do the duties which I should like to perform on each of those committees; and I think all other Senators must say the same for themselves.

So, Mr. President, with the world condition as it is, with our Nation already grown too big at the centralized center here in Washington, with the States better able to do the job, and with the localities and the individuals still thinking they have sense enough to be able to handle their own business, why do we have this continuous drive for overcentralization and the putting of more and more responsibility, jurisdiction, control, and regimentation here in the National Capital?

It makes no sense to me for us even seriously to consider doing such a thing. However, this step is but one of a half a dozen which we are encouraged to take, all in that direction.

Perhaps these words are wasted. Perhaps no Senator will read them in the RECORD tomorrow.

Nevertheless, we are now confronted with this attempt. I express the hope that each Member will earnestly consider it against his own obligations, against his own performance, and against his own ability to render the type of service he would like to render, and that in his heart he would be proud to render. When that is done, I believe that each Member of the Senate is bound to arrive at the answer that he already is overloaded and that the Federal Government already is overloaded, and that, instead, we should proceed in the other direction, rather than to bring more and more loads and burdens to Washington, to be piled up here and to be doomed to be handled by bureaucracies that all too frequently hardly have a chance to report to the Senate and to the House of Representatives, much less to be understood by those of us who would like to understand everything they do.

Mr. President, I hope the Senate will not take the misstep of passing this bill.

I now suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SMITH of Massachusetts in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 26]

Alken	Ervin	Miller
Allott	Fong	Monroney
Anderson	Goldwater	Morse
Bartlett	Gore	Morton
Beall	Gruening	Moss
Bennett	Hart	Mundt
Bible	Hartke	Muskie
Blakley	Hayden	Neuberger
Boggs	Hickey	Pastore
Burdick	Hill	Pell
Bush	Holland	Prouty
Butler	Hruska	Proxmire
Byrd, Va.	Humphrey	Randolph
Byrd, W. Va.	Jackson	Russell
Cannon	Javits	Saltonstall
Capehart	Johnston	Schoeppel
Carlson	Jordan	Scott
Carroll	Keating	Smathers
Case, S. Dak.	Kefauver	Smith, Mass.
Chavez	Kerr	Smith, Maine
Clark	Kuchel	Sparkman
Cooper	Lausche	Stennis
Cotton	Long, Hawaii	Symington
Curtis	Long, La.	Talmadge
Dirksen	Magnuson	Thurmond
Dodd	Mansfield	Wiley
Douglas	McCarthy	Williams, N.J.
Dworshak	McClellan	Williams, Del.
Eastland	McGee	Yarborough
Ellender	McNamara	Young, N. Dak.
Engle	Metcalf	Young, Ohio

Mr. HUMPHREY. I announce that the Senator from Idaho [Mr. CHURCH], the Senator from Arkansas [Mr. FULBRIGHT], and the Senator from Missouri [Mr. LONG] are absent on official business.

I also announce that the Senator from Virginia [Mr. ROBERTSON] is absent because of illness.

Mr. KUCHEL. I announce that the Senator from New Hampshire [Mr. BRIDGES] is necessarily absent because of illness in his family.

The Senator from New Jersey [Mr. CASE] is necessarily absent.

The Senator from Iowa [Mr. HICKENLOOPER] is absent on official business.

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the committee amendment.

Mr. GOLDWATER. Mr. President, no sensitive person can have peace of mind when he sees poverty, even the poverty of a single individual or a family. This is particularly true when such a condition is due to no fault of the victim himself.

Indeed, Prof. George J. Stigler, of the University of Chicago, has stated that the issue of poverty is not even a debatable question. But in a study of minimum wage fixing, he said there is a grave question whether the idea of eliminating poverty via the minimum wage laws has any validity whatsoever—"American Economic Review, 1946."

Professor Stigler's analysis seems even more relevant in 1961 than it was when he first spoke publicly on this matter. The late Lord Keynes in an article published in the Economic Journal in 1946—Cambridge University—stated he had reason to believe that the United States economy is becoming a high cost economy. Statesmanship requires that we not ignore these words of warning.

There are two specific reasons why these warnings are important:

First. We are in an international balance-of-payments bind.

Second. According to the official prognostications of the Bureau of Labor Sta-

tistics, we are facing a period, almost inevitably, of higher levels of unemployment.

This latter is due primarily to the changing structure of our labor force. All the detail of the unemployment reports of the Bureau of Labor Statistics in recent months have stressed that unemployment is heavily concentrated in four major groupings: First, young people just entering the labor force; second, the unskilled worker; third, the nonwhite members of the labor force; and fourth, those in contracting areas or industries.

Everyone, with compassion in his heart, would like to see better opportunities for these people; but if they cannot gain reasonably full employment under existing wage rates, it seems perfectly obvious that a rise in the price of their labor, if forced upon the labor market by nonmarket forces, must make their employment prospects even more pessimistic.

It is not enough to view wages only as income and purchasing power; we must recognize that wages also have another side—a cost side. Everyone's income is a cost to someone else. Everyone's increase in income is a cost to others, unless offset by a rise in productivity.

A compulsory rise in minimum wages seems, on the surface, highly humanitarian. But a responsible legislator or statesman cannot avoid looking at wages both as income and as costs. He recognizes that a rise in the compulsory minimum wage may have disemployment effects—particularly among those workers who are jobless because of their youth and therefore lack job experience or skill. The same is true of others, the demand for whose services is slack and sluggish.

Furthermore, the cost-push explanation of an inflationary bias in our economy is now widely accepted. The official records show that after nearly 4 years of relative stability in the Consumer Price Index—1952 to early 1956—this index started to move upward in March 1956 at the very time—March 1—that the most recent compulsory increase in the minimum wage was made effective. No one would argue that the rise in the index since the spring of 1956 is traceable exclusively to the compulsory increase in the minimum wage as of that time. But nearly everyone would agree that it had some cost raising impact and thereby worsened the income position, relatively, of workers generally, including the workers at the minimum wage. And a rise at the minimum has a cost-raising and disemployment impact above the minimum as well. It cannot help those in distressed areas and industries.

Furthermore, since 1949, we have had an imbalance in our international balance-of-payments accounts almost continuously. The rise in labor costs at this time would be particularly unwise. It would be certain to have price effects and worsen the competitiveness of our economy, both at home and abroad.

Assuming that we have to continue heavy expenditures abroad for national security reasons and we do not desire to cut down the freedom to travel abroad and invest abroad, the most important

weapon to counteract our international imbalance is to step up our exports; this means that we must provide the foreign buyer with better values—improved products and services, preferably at lower prices.

In short, for these reasons, any increase in the legal minimum wage would be peculiarly unwise at this time.

Mr. President, I refer to what former Secretary of Labor Mitchell said before the committee in the hearings conducted in 1959 and 1960, on page 519:

Much of the decline in employment in the 12 industry segments which occurred during the period can be attributed to the \$1 minimum wage. However, there were other economic influences on a number of the industries in question which were in part responsible for changes in level of employment. Some of these may be considered as reflecting, at least in part, long-term effects of successive increases in wages required by the Fair Labor Standards Act.

VISIT TO THE SENATE BY MEMBERS OF THE JAPANESE DIET

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. GOLDWATER. I am happy to yield.

Mr. CAPEHART. I am sure every other Senator joins with me in being pleased that we have as our guests today, in the rear of the Chamber, three honorable gentlemen from the Japanese Diet. I present them to the Senators as our guests.

The PRESIDING OFFICER. The Senate is honored by the presence of these distinguished visitors. [Applause, Senators rising.]

Mr. CAPEHART. I thank the Senator from Arizona for yielding.

Mr. GOLDWATER. I was very happy to yield for that purpose.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the concurrent resolution (H. Con. Res. 51) to print as a House document the publication "Facts on Communism—Volume II, The Soviet Union, From Lenin to Khrushchev," and to provide for the printing of additional copies.

The message also announced that the House had agreed to the amendment of the Senate to the concurrent resolution (H. Con. Res. 81) to provide for the printing of a House document.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 178. An act for the relief of Michael J. Collins;

S. 278. An act to amend title II of the Vocational Education Act of 1946, relating to practical nurse training, and for other purposes;

S. 298. An act for the relief of Earl H. Pendell;

S. 900. An act to provide for the striking of medals in commemoration of the 250th anniversary of the founding of Mobile, Ala.;

S. 1295. An act to authorize the use of funds arising from a judgment in favor of the Nez Perce Tribe of Indians, and for other purposes;

S. 1297. An act to authorize the payment of per diem to members of the Indian Arts and Crafts Board at the same rate that is authorized for other persons serving the Federal Government without compensation; and

S. 1298. An act to permit the Secretary of the Interior to revoke in whole or in part the school and agency farm reserve on the Lac du Flambeau Reservation.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service, and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. GOLDWATER. Mr. President, the President of the United States very unfortunately, in a press conference the other day, said that the bill would affect only those industries and businesses making more than a million dollars a year. If that were true, it would be a very happy eventuality.

The truth is, Mr. President, that with respect to at least some of the industries the bill would affect, the earning capacity has gone down to a great extent compared to past years. For example, in the report "Operating Results of Department and Specialty Stores in 1959," done by the Harvard Business School Division of Research, it is stated that pretax earnings for specialty stores over \$1 million in sales volume have been virtually unchanged for the past 3 years. The earnings have been 2.8 percent of the net sales in such stores. Earnings were 2.85 percent in 1958 and 2.8 percent in 1959.

To the uninitiated, I know there seems to be a very high margin of profit in retailing. Mr. President, I have quite a bit of experience in that field, and I can assure the Senators there is not. It has become, in the past, a very risky business. The average net profit in the retail establishments in this country is slowly going down, is now below 3 percent, and is approaching 2.5 percent.

I think it is very obvious to anyone who understands economics that this narrow margin of profit cannot absorb increased costs. When retailers are presented with increased costs which have come about through unnatural forces, such as Government fiat, there is only one thing they can do, and that is to increase prices. Costs cannot be assumed by any business without an increase in prices unless the cost increase has come as a result of increased productivity, in which case the cost will take care of itself.

It would be easy to study many areas of merchandising in this country in respect to which prices have not changed over the past 20 years. This has come

about because man has been able to produce faster. We have been able to increase salaries and at the same time keep the cost of merchandise down.

I wish to have my friends in this body perfectly aware of what we would do. By unnatural forces we would increase the cost of doing business, which would increase the cost to the consumer. We would unnaturally increase wages. The combination of the two, as I think we have proved time and again, would do no good to the very person we are trying to help. The proposed legislation would not be humanitarian. We would in fact be a little selfish, because the person who would receive the increase, plus all the increases that would go along with it along the road, would, within a year, pay more for his merchandise, food, rent, car, and gasoline, and as a result he would be worse off at the end of 12 months than he is at the present time.

No one likes low wages. I think we must be realistic and recognize that in most cases a man is paid what he earns. Whether we like it or not, there are people in this country who cannot earn more than a dollar an hour because their productivity is not worth more than a dollar. In some cases it can be shown that the worker is worth no more than 50 cents an hour. But we assume that we can unnaturally increase that man's pay and do him good. We cannot do so. We have not done so, and ever since the minimum wage law has been a part of our statutes, we have been doing increasing harm to the lower paid worker in our economy. Had natural forces been allowed to operate, he would be better off today, not necessarily from the standpoint of the size of his paycheck, but because the inflation that has resulted from the unnatural forces acting by Government fiat would not have been present to the extent that it has been present, and he would be buying more for his dollar.

I wished to make those few remarks to be added to those I made earlier, and to which I will add more in the course of this debate. I wish my colleagues to know perfectly well what they are doing when they vote on this measure.

In conclusion, I wish to say again that the passage of the bill would have no effect upon the economy. Secretary of Labor Goldberg told me it would pump \$1,300 million into the economy. I repeat what I said earlier. That amount of increases in less than 24 hours of business in the United States, and would certainly have no effect at all upon an economy the size of ours, which is now running at the rate of about \$507 billion.

VISIT TO THE SENATE BY CHANCELLOR KONRAD ADENAUER OF THE FEDERAL REPUBLIC OF GERMANY

Mr. MANSFIELD. Mr. President, shortly the Senate will be honored by a visit from the Chancellor of the Federal Republic of Germany, Konrad Adenauer.

I ask unanimous consent that the Senate stand in recess, subject to the call of the Chair, for the purpose of receiving this distinguished visitor.

The PRESIDING OFFICER (Mr. SMITH of Massachusetts in the chair). Is there objection? The Chair hears none, and it is so ordered. The Chair appoints, as a committee to escort the Chancellor into the Chamber, the Senator from Montana [Mr. MANSFIELD], the Senator from Illinois [Mr. DIRKSEN], the Senator from Alabama [Mr. SPARKMAN], and the Senator from Wisconsin [Mr. WILEY].

Whereupon, at 2 o'clock and 33 minutes p.m. the Senate took a recess, subject to the call of the Chair.

The Senate being in recess, his Excellency, Konrad Adenauer, Chancellor of the Federal Republic of Germany, escorted by the committee appointed by the Vice President, entered the Chamber, and took the seat assigned to him immediately in front of the Vice President.

The members of the party accompanying the Chancellor of the Federal Republic of Germany, consisting of His Excellency, Dr. Heinrich von Brentano, Minister of Foreign Affairs of the Federal Republic of Germany; His Excellency, Wilhelm G. Grewe, Ambassador of the Federal Republic of Germany; and the interpreter, Mr. Krusterer, were escorted to the Chamber, and took the places assigned to them.

The VICE PRESIDENT. Members of the Senate, it is a very high honor and a very great privilege to present the Chancellor of the Federal Republic of Germany, Konrad Adenauer. [Applause, Senators rising.]

Thereupon, from the rostrum, the Chancellor delivered a brief address in German, which was translated, as follows:

Mr. Vice President and Members of the Senate, it is a particularly great pleasure and honor for me to be in this place for the second time and to address a few words to you. I would like to express my heartfelt gratitude for the most friendly and warm reception you have given me here. I know that it was meant primarily for the people I have the honor to represent. Therefore, I thank you with all the warmth of my heart. I may assure you, Members of the Senate, that in these particularly difficult times the German people will always stand by your side, ready to help wherever the Germans can help. Thank you again. [Applause, Senators rising.]

The VICE PRESIDENT. The Chancellor has informed the majority and minority leaders that he would be pleased to visit with the Members of the Senate in the well of the Chamber.

The Chancellor, with his party, was thereupon escorted to the well of the Senate, where he was greeted by the Members of the Senate, after which he and his party retired from the Chamber.

At 2 o'clock and 50 minutes p.m., the Senate reassembled, when called to order by the Presiding Officer (Mr. SMITH of Massachusetts in the chair).

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to consider executive business.

ASSISTANT SECRETARY OF THE TREASURY

Mr. MANSFIELD. Mr. President, the chairman of the Committee on Finance has reported a nomination which has been unanimously approved by his committee, and on which he indicates the Secretary of the Treasury wishes to have the Senate take action this afternoon.

Mr. BYRD of Virginia. Mr. President, on behalf of the Committee on Finance, I report favorably the nomination of Stanley S. Surrey, of Massachusetts, to be Assistant Secretary of the Treasury. The nomination is unanimously reported.

I ask unanimous consent that a letter written to me by the Secretary of the Treasury be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, D.C., March 24, 1961.

MY DEAR MR. CHAIRMAN: The concern of some members of your committee with Mr. Stanley Surrey's writings as a professor of tax law and as a private citizen has been brought to my attention. In this connection, I thought it might be helpful if I gave you some of the background of Mr. Surrey's current operations and of the circumstances leading to my recommendation to the President that he be designated as Assistant Secretary of the Treasury for Tax Policy.

In considering and interviewing various people who were suggested for this post, I had detailed conversations with Mr. Surrey prior to coming to any decision. One of the chief points of discussion with him was whether he would feel bound in his official role by personal points of view on various tax matters which he had previously expressed as a private citizen. Frankly, I told him that I wanted to be sure that he would not feel obliged to stick by everything he had written and that he would be in a position and frame of mind to take a completely objective and fresh look at specific tax problems as they arose.

I found that Mr. Surrey felt very strongly that he should undertake any official position with a completely open mind. He felt he should undertake to gather the evidence and facts and opinions of other interested executive departments, and particularly of members of the staffs and committees of Congress concerned with tax matters, before arriving at a definite point of view of his own. I also found him completely in agreement with my position that no program or tax policy should be advocated as a firm Treasury policy until after a decision made by the President and me that a given policy or program was in the national public interest.

Mr. Surrey and I both agreed that it would be important that he put aside his writings as a professor in performing his task as a public official; that it was one thing to write on the outside as an observer or commentator and another to operate within the Government where the responsibility is quite different.

In the intervening weeks I have noted with gratification the objective way in which he has been proceeding to do the tasks assigned in the spirit and manner described above. In his thinking and approach he is not, in my opinion, a captive in any sense of his previous observations and, like most of us in public office, is quite willing and ready to consider other qualified points of view. On many issues of tax policy which are currently confronting us in connection with some of the President's own public expressions, Mr. Surrey has been trying to weigh very carefully the observations of many others before arriving at his own conclusions and recommendations.

I believe all of this accounts in substantial measure for his position in the course of testimony before the committee when he repeatedly stated that he could not now give fixed opinions on many matters which are or will be under intensive review.

I wanted you to have these personal impressions of this situation in the hope that they might prove useful in throwing light on the circumstances under which Mr. Surrey undertook his assignment and on the difficulties he or any official so engaged has in stating currently held views in matters on which he is earnestly trying to keep an open mind as an important element in the official process of policymaking.

Respectfully yours,

DOUGLAS DILLON.

The PRESIDING OFFICER. The nomination will be stated.

The Chief Clerk read the nomination of Stanley S. Surrey, of Massachusetts, to be an Assistant Secretary of the Treasury.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

JUDICIARY NOMINATIONS

Mr. MANSFIELD. Mr. President, I understand the nomination of W. Arthur Garrity has been cleared by the Committee on the Judiciary and has been approved by the minority leader.

Mr. DIRKSEN. Mr. President, the nomination has the approval of the Committee on the Judiciary. In addition, I took the liberty of checking with the minority conference leader, the distinguished senior Senator from Massachusetts [Mr. SALTONSTALL]. Not only has he no objection to the nomination, but he believes it is a good appointment. So there is no objection to the consideration of the nomination this afternoon.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of W. Arthur Garrity, Jr., of Massachusetts, to be U.S. attorney for the district of Massachusetts.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Raymond J. Pettine, of Rhode Island, to be U.S. attorney for the district of Rhode Island.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Anson J. Anderson, of North Dakota, to be U.S. marshal for the district of North Dakota.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Covell H. Meek, of Iowa, to be

U.S. marshal for the northern district of Iowa.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of George A. Bayer, of Alaska, to be U.S. marshal for the district of Alaska.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Harry A. Sieben, of Minnesota, to be U.S. marshal for the district of Minnesota.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Miles W. Lord, of Minnesota, to be U.S. attorney for the district of Minnesota.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Francis C. Whelan, of California, to be U.S. attorney for the southern district of California.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Floyd M. Buford, of Georgia, to be U.S. attorney for the middle district of Georgia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Edward F. Boardman, of Florida, to be U.S. attorney for the southern district of Florida.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Charles A. Muecke, of Arizona, to be U.S. attorney for the district of Arizona.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Joseph P. Hoey, of New York, to be U.S. attorney for the eastern district of New York.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Joseph N. Tierney, of Illinois, to be U.S. marshal for the northern district of Illinois.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of John Terrill, of Wyoming, to be U.S. marshal for the district of Wyoming.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Robert M. Morgenthau, of New York, to be U.S. attorney for the southern district of New York.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of John F. Quinn, Jr., of New Mexico, to be U.S. attorney for the district of New Mexico.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Dave Fresquez, of New Mexico, to be U.S. marshal for the district of New Mexico.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Olin N. Bell, of Missouri, to be U.S. marshal for the eastern district of Missouri.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Francis M. Wilson, of Missouri, to be U.S. marshal for the western district of Missouri.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

COMMISSIONER OF PATENTS

The legislative clerk read the nomination of David Lowell Ladd, of Illinois, to be Commissioner of Patents.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

U.S. DISTRICT JUDGE

The legislative clerk read the nomination of Reynaldo G. Garza, of Texas, to be U.S. district judge for the southern district of Texas.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

The legislative clerk read the nomination of LaVerne R. Dilweg, of Wisconsin, to be a member of the Foreign Claims Settlement Commission of the United States.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. MANSFIELD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, the President will be notified forthwith of the confirmation of the nominations.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service, and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. COTTON. Mr. President, I cannot escape the conviction that the minimum wage bill proposed by the committee and pending before the Senate today is the wrong bill at the wrong time. It is wrong in principle. It is wrong in practice. Unless it is drastically amended, it should be defeated.

The practical effects of the enactment of the bill ought to be clearly understood

by the Senate and by the people before we take any final action on it, and I refer to its effect on the businesses concerned, and—even more important—on the people who work for those establishments, and on the country as a whole.

The bill extends the long arm of Federal wage and hour regulation far into the Main Streets of America. The bill will throw a net of Federal redtape, for the first time, over the wage and hour practices of local retail and service establishments with far-reaching consequences.

The extension of coverage of the Federal Fair Labor Standards Act to local retail and service businesses can be based only on a deep-seated distrust of the States of the Union and of their legislatures, their Governors, and their people.

Mr. HOLLAND. Mr. President, will the Senator from New Hampshire yield?

Mr. COTTON. I yield.

Mr. HOLLAND. Is it not true that the Senator's own State of New Hampshire has a State Wage and Hour Act, passed by the legislature and approved by the Governor?

Mr. COTTON. It is, indeed, true; and in a moment or two I expect to refer to it emphatically.

Mr. HOLLAND. I thank the distinguished Senator. If he will permit me to ask another question, Is it not true that the State of Massachusetts, an adjoining State, and also another good State, has a Wage and Hour Act, but that that act differs greatly because in the wisdom of the legislature and the Governor of Massachusetts it was deemed that conditions in that State required different treatment from that given to business in New Hampshire?

Mr. COTTON. According to my understanding and knowledge, the Senator from Florida is completely correct. He has well stated and emphasized the reasons for the difference.

Mr. President, the bill is based on the theory that the States, regardless of the wishes of their citizens, and the efforts of the union organizations within the State, will not enact effective and reasonable State minimum wage laws, tailored to meet the local conditions. This is a false approach, as a quick glance at the minimum wage legislation of the State of New Hampshire will prove.

New Hampshire has had for many years a statutory minimum wage which now sets a minimum of \$1 per hour. The coverage of the State act is far broader than the coverage proposed in the pending bill. It covers every retail store, every manufacturing plant, every laundry, every drycleaning plant in New Hampshire. All of these establishments must now pay a minimum of \$1 per hour, and the State legislature is now considering legislation to increase the present minimum to possibly the \$1.25 an hour being considered here.

Mr. HOLLAND. Mr. President, at this point will the Senator from New Hampshire yield?

Mr. COTTON. I yield.

Mr. HOLLAND. Does not the distinguished Senator from New Hampshire

think that his own State legislature knows more intimately and better about the competitive conditions existing between various businesses in his State, the cost-of-living conditions, and the like, than the Members of the Federal Congress can possibly know, in view of the great size of our Nation?

Mr. COTTON. That is precisely what I believe, and it has been very well stated by the Senator from Florida.

The record in New Hampshire clearly shows that its State legislature is adequately responsive to the public needs in this field, and that a national statute in this area is quite unnecessary.

A second philosophy which must underlie the pending bill is a belief that the only important thing to consider is the wage scale. I cannot accept this theory. To my mind, it is just as important to preserve jobs as it is to preserve wage scales.

I am familiar with many retail stores and mercantile establishments in New Hampshire that employ a number of older people, many of them widows. These people do not have heavy work. Their hours are often short; and their production, in terms of sales, is often low. While their pay is not large, it augments and pieces out their other income, and enables them to live more comfortably. Their employment enables them to contribute fruitfully and constructively to the general well-being. Young people just out of school, who lack the experience and training of older workers, are in similar circumstances.

The minute Congress reaches into the Main Streets and sets a high minimum wage for retail establishments and service businesses, many of those people will immediately lose their jobs. If a higher wage must be paid, fewer, but more active and experienced, employees must be hired—high-pressure salesmen, persons who can assume added duties and burdens, so that fewer will do the work that more had done before.

This is how the bill will injure the people who need employment most—the younger workers, as well as the aged and the widows.

Of course, the bill before us is sugar coated, because it applies minimum wage regulation only to retail establishments which do more than a million dollars of business a year, and it is sugar coated because it takes effect gradually.

But every Senator knows that the discrimination between establishments which do \$950,000 worth of business a year and those which do over \$1 million a year is so obviously illogical and unfair that it is bound to be repealed. These tranquilizing provisions are put in to win support for the measure now; but next year, or the year after, the figure will be lowered once, and then lowered again, until the act applies to all businesses, of whatever size and type.

When we start to travel along the road of the bill's warped, distorted, and legalistic definition of interstate commerce, there will be few, if any, limits to what the Federal Government can and will regulate. Let us remember that President Franklin D. Roosevelt, in calling for the enactment of Federal minimum

wage legislation in 1937, said it was for "those who toil in the factories." He said:

There are many purely local pursuits and services which no Federal legislation can effectively cover.

His words are forgotten today. Instead, we hear statements like that of AFL-CIO President George Meany:

If an enterprise cannot survive except by paying wages of 75 cents or \$1 an hour, I am perfectly willing for it to go out of business—it's not worth saving at that price.

Mr. Meany may be willing to force small enterprises out of business, but I am not; and I am even more unwilling to force their employees into the ranks of the unemployed.

There should be no confusion or misunderstanding about the effect on employment of an increase in the minimum wage.

A careful investigation by the United States Department of Labor into the effect of the last increase in the minimum wage revealed that it reduced employment by 9 percent in 12 different industries most affected by the increase.

The decrease in employment would undoubtedly be more severe now, in view of the economic conditions in the country. Let us bear in mind that the drop in employment following the last change in the minimum wage took place during a period of prosperity and rising economic activity, not in a slack period of high unemployment, such as we have today.

Today, unemployment is a serious problem in most the Nation. More than 6 percent of the labor force in my own State of New Hampshire is unemployed, and in some sections of my State the unemployment rate is over 9 percent. Enactment of this legislation will make it worse. That is why this is the wrong time for a wrong bill, in my view.

Furthermore, there can be no doubt that a rise in minimum wages by 25 percent is highly inflationary. The testimony offered to the committee by Gottfried Haberler, who is Galen L. Stone, professor of international trade at Harvard University, details with considerable precision its inflationary aspects.

I hope to be able to vote for an increase in the minimum wage for those for whom the law was designed, as I have done several times in the past. But I cannot vote for a bill that callously injures the people who need employment most and the business firms which provide it in the towns and cities of my own State and other States.

If the definition of interstate commerce, as now contained in the bill, and if the provisions in regard to the extension of coverage remain in the bill, I cannot vote for it.

Mr. HOLLAND. Mr. President, will the Senator from New Hampshire yield?

Mr. COTTON. I am glad to yield.

Mr. HOLLAND. Considering for a moment the question of hours, as dealt with in the pending bill, does the Senator from New Hampshire know of any better way to have laws which may be effective in this field comport with the practices, customs, traditions, and demands of the customers in the various

States and in the communities of various sizes in those States than to have the problem resolved by State legislatures in close touch with their own people and well knowing those practices, customs, and traditions?

Mr. COTTON. I could not agree more fully with the Senator from Florida. I come from a rural State. As the Senator from Florida himself pointed out very ably only a few moments ago, our neighbor to the south, the great Commonwealth of Massachusetts, is a highly industrialized and urban State. The problems of the little business enterprises along the streets of a town in my State and the problems of businesses in the more densely populated sections of some other State are just as different as the North Pole is from the Equator.

Those who are able to handle these problems and have the necessary knowledge in regard to them are the ones who are close to them. But today the country is faced with the fact that by means of this measure we would simply ignore the city halls, the county courthouses, and the State legislatures; instead, we are trying to permit a few people here in Washington to lay down the ground rules for everyone—to put all into a vise, and to apply to all sections of the country, all problems, and all conditions exactly the same formula.

As I have pointed out in what I have had to say, the legislature of my own State is alive and alert to the need for adequate wages. It has acted. Only 2 years ago it revised our wage scale, and increased it. Today, it is working on a bill in this field. So it is completely unnecessary for the U.S. Congress to insist on legislating for us.

When the Congress tears down the last bulwark that protects a small business which does business in only one State, of course some artificial formula can be applied, on the basis that something that business buys comes from another State. All business activities, from the small neighborhood grocery store to the biggest factory in this country, can be thrown into one net by some distorted formula. But, actually, the day that the Congress of the United States reaches into every little town and hamlet of this country and regulates the wages and hours of every garage and restaurant and every other establishment, on that day big business, big government, and big labor will take over the American people, and the kind of Republic of communities and States that we have cherished will cease to survive.

Mr. HOLLAND. I thank the Senator for a distinguished and, I think, a completely accurate analysis of the bill.

Mr. COTTON. I thank the Senator.

Mr. HOLLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further proceedings under the quorum call be suspended.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOOD AND PEACE PROGRAMS

Mr. HUMPHREY. Mr. President, a constructive conference on food and peace programs was held in Columbus, Ohio, April 4, under the sponsorship of the Town and Country Department of the Ohio Council of Churches, in cooperation with other voluntary groups. John M. Wilson, executive secretary of the Ohio Council of Churches, presided over the gathering, which attracted some 300 prominent Ohio church leaders. The affair was arranged by Clyde N. Rogers and Margaret S. Brugler, codirectors of the Town and Country Department of the Ohio Council of Churches. Participating were representatives of our Government as well as spokesmen for such groups as Care, Crop, Church World Service, the Friends Legislative Committee, the Heifer Project, Inc., and other voluntary groups dedicated to serving humanity throughout the world. The theme was the future role of voluntary groups and government in making such efforts more effective.

Representing the executive branch of our Government at this conference were James W. Symington, deputy director of the food-for-peace program, Herbert J. Waters, special assistant to the Director of the International Cooperation Administration, and Gordon Boyce, in charge of voluntary agency participation for the Peace Corps.

Because they highlight new developments and new thinking in the use of food as an important segment of our assistance efforts, I ask unanimous consent to have printed at this point in the RECORD the texts of remarks by Mr. Symington and Mr. Waters at the conference.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

THE CHALLENGE OF FOOD FOR PEACE
(Remarks of James W. Symington, deputy director, food-for-peace program, before the Conference on Food and Peace Programs, Columbus, Ohio, Tuesday, Apr. 4, 1961)

What is the challenge of food for peace? There is an old Spanish saying, "El hambre no es un buen consejero." It means "Hunger is not a good adviser."

Yet it is no exaggeration to say that at least half the people in the world are getting this kind of advice today. And they turn, as they well might turn, to the counsels of despair. I could show you a picture of a child in a country to the south of us—one child warped by starvation, shriveled by dehydration—and I think you would agree—this is a challenge for food for peace. I could take you to his family's dirt floor hut—and show you the mother trying to tease a smile from that child with another drop of foul water from the family chalice, a broken coke bottle. And you might say—this is a challenge for food for peace.

Then we could drop in on a weekly meeting of the community peasant's league where the father sits in brooding silence as the local Communist organizer harangues him and his neighbors to throw off the yoke of feudalism, and take by force what neither justice nor mercy had given them or their kind for 500 years. Such an experience might invite the conclusion—here is a challenge for food for peace. Food to stop revolutions? No, food to start better ones.

Food to make shackles bearable? No, food to break the shackles. For food nourishes reason, and rational men choose freedom.

The condition of men even in what we so proudly call the Western Hemisphere is a disgrace to us all. In Asia, in Africa, in the Near and Middle East, and right here in the Americas live, using the verb loosely, millions of people engulfed by indifference, buried by custom, crucified by statistics, and all but forgotten. It is time for these people to advance and be recognized. Food for peace acknowledges their right to recognition and their need to advance.

All this is familiar ground to you. This is hardly a group that needs a lecture on humanity. Humanity is your business, and I have no doubt you have some ready definitions yourselves of the challenges of food for peace. I trust they would not be too far from mine.

What is not contemplated, as Mr. Waters has suggested, is a giant worldwide feeding program while the abundance lasts—to be terminated when it's gone. That would be both shortsighted and dangerous—and quite unnecessary. Man cannot live on bread alone, but proper food in sufficient quantities can lift men and societies out of oblivion and into progress. It can stimulate community spirit—and the work that such spirit begins—work on roads to market, houses, health centers, schools—yes, and places of worship. It can sustain the child in school and replace his parents' anxieties with incentives and pride. It can grubstake families on new lands—until their crops come in.

We in food-for-peace look forward to the time when our work is over—when the societies we help to build today are healthy societies, whose citizens share in both domestic progress and affairs among nations; in the commercial relationships that are enjoyed today by such a small minority of their fellow nationals. We need only our own depression to remind us that the blighted areas of today may be the dollar markets of tomorrow. I mention this to you not as humanitarians, but as taxpayers. But while this happy day may not be the millennium it's not just around the corner either. For the immediate future our problem may be summed up as three-tenths of the world on a balanced diet, six-tenths on Manloca and one-tenth on Metrecal. There's work to do.

And no society, no government ever went forward to meet any challenge with more dedicated or experienced allies than the United States as it moves to conquer hunger and suffering side by side with the voluntary agencies of America.

You know the history of this alliance better than I. It has functioned in two World Wars and the aftermath of each. President Roosevelt's War Relief Control Board which coordinated relief activities in World War II was succeeded by the Advisory Committee on Voluntary Foreign Aid in May 1946. Since its inception, the Advisory Committee has been chaired by Mr. Charles P. Taft, a distinguished citizen of this State and an important leader in church affairs. The chairman and the nine members of the Committee all serve without compensation as a public service.

Some 58 American voluntary agencies are now accredited by the Committee. This does not mean Government control. Each agency is left free to carry out its program along its own lines and in its own characteristic spirit. Registration indicates U.S. Government approval of the aims and purposes of these agencies. It also brings with it certain tangible benefits which are now provided in U.S. law, regulations, and administrative actions. It provides, too, a central place in Government, a point of liaison, to service and encourage in all appropriate ways the important activities which these

eating deeper and deeper into the virgin stands leaving stumps and cull logs and desolation. Many well meaning people believe that any timber harvest is destructive. In the testimony on the Three Sisters Wilderness Area in Oregon it was contended that if any of the land were removed from wilderness classification that the timber would be cut, the land would erode, the watershed would be ruined, and wildlife would suffer. In other words, forestry is poor land use. Sad to say that is not an uncommon belief. Also sad to say, foresters have made enough mistakes to keep this image alive.

Our profession has failed to dispell from the public mind the feeling that cropping timber is a destructive process. We have failed to sell fully the idea that timber management is more than timber cutting—that it is culture of the soil, seeding and planting of trees, thinning and pruning, controlling fire and pests, and doing the other things to produce successive stands of vigorous trees. We need to do a better job of telling and showing the public that there is beauty in vigorous young growing forests, and in stands reaching healthy maturity as well as in old growth. We have to drive home the facts that managed forests offer a wide variety of recreation opportunities—camping, hunting, fishing, winter sports, boating and aesthetics—that good forestry practices can create a variety of new recreation opportunities which are not available in undeveloped, unmanaged forests. Examples are roads for access by hunters, sightseers, campers and fishermen, and improved habitat for wildlife.

Above all, if we are to meet the challenge before us we must demonstrate by deed and act that forestry includes developing the recreation opportunities of forest lands and making them available to the public.

Let I sound too gloomy I hasten to say that I do not apologize for the contribution the forestry profession has made to outdoor recreation. We have provided leaders in this field for years. Our accomplishments have been substantial on both private and public lands. We have a solid foundation to build on for the years ahead.

I am one who believes that foresters are better equipped than any other group or profession to manage forest lands for all their values, including recreation. I believe that multiple-use management presents the most promising solution to the problem of our shrinking forest land base, and the increasing needs for recreation and the essential material resources.

Good as we are we must be even better in the future. To meet all of the demands that will be placed on forest lands will require more intensive management of all such lands for all of their values than most of us have ever seen or even visualized. To keep pace with the job, ours must be a growing, dynamic, imaginative profession.

We will not only need more—but vastly better informed foresters. Today's and tomorrow's problems, challenges, perplexities and opportunities cannot be effectively met—except by men of ability who possess attitudes and characteristics tuned to the culture in which we live. We need men with vision, imagination, creativeness, boldness and skill in harmonizing resource uses.

We must continue to grow in the knowledge of our profession. We must be sensitive to the social as well as economic values and nurture the ability to distill these factors into action programs acceptable to the "greatest number of people."

As foresters we must skillfully prevent our primary management objectives from becoming too primary, whether they be for timber production, recreation or wildlife, modifying them within reason will permit a greater variety of uses, thus creating opportunities to satisfy more people. In the final analysis, the will of the people eventu-

ally prevails. We must fact facts—outdoor forest recreation is a cherished, established and growing requirement of American society.

Attitudes of foresters and their education in preparation for social and land management decisions of the future give greater concern than technical phases of our profession. This is not peculiar to forestry. Recent studies reveal similar concern in other professional fields such as business administration and engineering. We must recognize that resource problems are not solvable in isolation from political and social complexities. Each is dependent to a great degree on the other. We must learn to read the signs all around us—in the life history of every forest, in the warnings from water deficient areas and the mounting demands for all kinds of forest recreation. We must realistically appraise these demands in terms of the world around us.

Today we have within our reach the opportunity to draft a land use blueprint to more adequately meet the future needs of people. We can do it if we choose to do so. I believe we are going to do it.

ORDER FOR ADJOURNMENT UNTIL 10 O'CLOCK A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns today, it adjourn to meet at 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

COMMITTEE MEETINGS

Mr. SPARKMAN. Mr. President, I ask unanimous consent that in the morning during the meeting of the Senate the Subcommittee on Housing of the Committee on Banking and Currency be permitted to meet.

Mr. DIRKSEN. Mr. President, will the Senator repeat his request?

Mr. SPARKMAN. I ask unanimous consent that in the morning during the meeting of the Senate the Subcommittee on Housing of the Committee on Banking and Currency be permitted to meet. We have been holding hearings. This is the second week of such hearings, and we planned to finish them tomorrow morning. I should like to go through with that plan.

Mr. DIRKSEN. Mr. President, the request places me in a slightly awkward position, because today I had to object to subcommittees meeting. The reason I say I am in an awkward position—

Mr. SPARKMAN. Mr. President, I will withdraw the request.

Mr. DIRKSEN. Mr. President, I should like to finish my statement. The Subcommittee on Antitrust and Monopoly Legislation of the Committee on the Judiciary had a meeting set for this morning at 9:30. The subcommittee met for a short while. Witnesses have been called and a meeting is scheduled for 9:30 tomorrow morning. If the Senate meets at 10 o'clock in the morning, the meeting of the subcommittee can at best be a token meeting. But if I could not attend the meeting—and the committee is considering an important subject—I would have to object to its meeting, and the members of the sub-

committee would charge me with a discriminatory practice if I objected in one case and did not object in another.

Mr. SPARKMAN. I started to reserve the right to object to the unanimous-consent request to meet at 10 o'clock tomorrow morning because of the planned meeting of the Subcommittee on Housing. However, I would not embarrass the leader at all, and therefore I withdraw my request.

Mr. DIRKSEN. I am greatly distressed about the awkward predicament in which I sometimes find myself.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

Mr. DIRKSEN. Mr. President, will the Senator yield so I may ask the majority leader a question?

Mr. SPARKMAN. May I make certain that I have the floor?

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. SPARKMAN. I yield to the Senator from Illinois.

Mr. DIRKSEN. I should like to ask the majority leader how long it is planned to continue the session today, if the Senate is to meet at 10 o'clock tomorrow morning.

Mr. MANSFIELD. In response to the question raised, it is anticipated that the Senate will be in session until 9 or 10 o'clock tonight. It will convene at 10 o'clock tomorrow morning, and probably will be in session late tomorrow night. There are a number of amendment which various opponents of the proposed legislation have said they plan to offer. I made inquiry of the chair a short while ago as to whether any amendments were pending. The answer was that there were none. If Senators are really interested in the proposed legislation, I suggest that they call up their amendments and have them voted upon one way or the other. The longer consideration of the amendments is delayed, the more difficult Senators are making it for themselves, because I doubt that the outcome will be different on any amendment whether it is voted upon today, Monday, Tuesday, or Friday of next week. So I hope we shall get on with the business, that we take our time about it, but offer the amendments and let them be voted upon.

Mr. DIRKSEN. Mr. President, will the Senator yield, subject to his right to the floor?

Mr. SPARKMAN. Yes, I yield.

Mr. DIRKSEN. I have a substantial list of Members on this side of the aisle who wish to be heard. But I believe most Senators are reserving their remarks until either tomorrow or some later time, depending on what the will of the Senate may be. I have tried to

coax some Senators into making their observations today, but I know that it is not always the easiest thing to do on short notice. However, I shall cooperate with the majority leader and see that all Senators are notified so that there will be an opportunity for Senators to prepare themselves either on the amendments or on the bill generally.

Mr. MANSFIELD. Mr. President, will the Senator from Alabama yield?

Mr. SPARKMAN. I yield.

Mr. MANSFIELD. The minority leader is always cooperative. I wish all other Senators were as cooperative as he is and as consistently cooperative. But I do not believe there will be too much in the way of speeches or debate on this side. I think most Senators on this side of the aisle are prepared to vote after only a very small amount of talk. Senators may or may not believe that statement, but if we could get on with the speeches, which I understand on the Republican side will range in length from 5 minutes to 150 minutes, and speeches on this side of the aisle, and if amendments could be presented, I think perhaps we would all be better off. But, of course, what we do or do not do lies with the Senate itself.

Mr. GOLDWATER. Mr. President, will the Senator from Alabama yield?

Mr. SPARKMAN. I yield to the Senator from Arizona, with the understanding that I do not lose my right to the floor.

Mr. GOLDWATER. May I have the attention of my friend the distinguished majority leader?

I wish to appeal to the good reason which the Senator from Montana has always exhibited and ask him not to be impatient on the subject of speakers.

Mr. MANSFIELD. I am not.

Mr. GOLDWATER. The subject under consideration is highly technical. The report was made available to Senators only this morning, about 9:40 a.m. It is a subject that very few people understand. A proper speech on the subject will require quite a bit of preparation. I know that Senators on this side of the aisle, both those who are for the bill and those against the bill, are in the process of assembling their thoughts now. It is not a subject upon which one can speak extemporaneously without any preparation. I urge the majority leader to be a little patient with our brethren who are now in the process of going through the testimony and the report to find what they wish to add or subtract from the words in the bill, and so that they may make a proper presentation.

Mr. MANSFIELD. I shall be as patient as Job.

All I am hoping is that some of the amendments, which I understand are quite numerous, will be laid before the Senate for consideration. I point out that we have been wasting a great deal of time today with quorum calls and other subjects when we should have been attending to the business at hand. We even had difficulty in having the proposed legislation laid before the Senate. Certainly no one can deny that sufficient notice was given, and no one can deny that in reporting the proposed legisla-

tion, nothing but the best kind of cooperation was given by the Senator from Arizona [Mr. GOLDWATER] and the Senator from Illinois [Mr. DIRKSEN], who kept their words and helped to expedite the proposed legislation.

Mr. GOLDWATER. I have 10 amendments at the desk. They all pertain to the present bill. I believe two amendments in the nature of a substitute will be offered. I feel that I might be wasting the time of Senators and my own time if I offered such amendments before Senators had an opportunity to vote on a substitute which would alleviate the need of my placing those amendments before the Senate.

I know the preparation of a substitute requires quite a bit of work, because the bill itself, as we all know, received some last minute changes in the committee meeting, and Senators who had amendments prepared have found it necessary to change the language of their proposals a bit to meet the new language of the bill.

We all understand that the actions were taken quickly, with the cooperation of the majority leader, the minority leader, and the members of the committee—and I think properly so. Now that the bill is before the Senate, I urge that the utmost patience be practiced. I am satisfied with the patience of Job, and I am satisfied with the patience of MANSFIELD.

Mr. MANSFIELD. We shall try to make them both synonymous.

WORLD TRADE SHIP ACT OF 1961

Mr. SPARKMAN. Mr. President, on behalf of my distinguished colleagues, the senior Senator from Massachusetts [Mr. SALTONSTALL], the Senator from West Virginia [Mr. RANDOLPH], the Senator from New York, [Mr. JAVITS], and my self introduce legislation that we have entitled "The World Trade Ship Act of 1961."

I regard this as one of the most imaginative yet most constructive pieces of legislation to be recommended to this Congress by your Small Business Committee, which I have the honor to serve as chairman, and of which my colleague from Massachusetts is the ranking minority member, and of which my colleagues from West Virginia and New York are distinguished and valuable members.

The President has asked this Congress and the American people to face boldly what he has termed our "New Frontiers." One of these frontiers is world trade, an area vital to the economic security and the present and future prosperity of our country.

Our Small Business Committee submitted to this body recently a report entitled "Small Business Exports and the World Market." This report is being widely read and many of its helpful suggestions have been implemented already by Executive action. Other suggestions, such as the U.S. Travel Service, are being enacted into law.

One recommendation of our committee was that our Government give serious consideration to sponsoring a traveling trade fair in a converted ship.

This idea is already in use by the Japanese Government, and has been a success in the Far East.

The joint resolution I am filing today would implement our committee's recommendation by inaugurating such a program by the United States. It asks the President to consider assigning our first atom-propelled merchant ship, among others, to this world trade ship activity. This vessel itself would be tangible and dramatic evidence of American skill and ingenuity, and of our progress in the use of the atom for peaceful purposes.

We propose also that the Department of Commerce consider the use of an idle aircraft carrier, or an idle mothballed merchant ship or ships for similar purposes. We envisage a program under which the finest products of American industry and agriculture will be displayed attractively and effectively in every port in the world. We recommend that the most needed of these products be transported by trailer truck, sales-mobile, or helicopter into areas remote from ports.

We propose that such a ship be a base for good business and for good business practices, that it be a floating embassy of good will in a troubled world. We believe the staff should be trained in the languages of the foreign peoples to be visited, and that aboard ship, sales materials should be prepared in native languages.

And we recommend that all transactions be concluded expeditiously aboard ship or on the spot. We propose unequaled good service and consideration for foreign buyers.

Competition has been the lifeblood of domestic business, and it has become the lifeblood of foreign trade. We propose to compete in the world market on fair terms, but we propose to compete with the same vigor and skills which we devote to domestic sales and which have characterized the commerce of our Nation from its beginning.

Mr. President, this is one of the most far-reaching and promising measures to be introduced in the present session of Congress. I urge my colleagues to join with me in achieving its speedy enactment.

We, the sponsors of the joint resolution, have agreed to request that the measure lie on the table for a period of 1 week from this date, so that other Senators may have an opportunity to join with us in sponsoring the legislation. I ask unanimous consent that that be done.

I also request unanimous consent, Mr. President, that the text of the joint resolution be printed at the end of my remarks, so that Senators and citizens of the country generally and our foreign friends may be informed of the high purposes of the joint resolution.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will lie on the desk as requested by the Senator from Alabama, and will be printed in the RECORD.

The joint resolution (S.J. Res. 73) to promote the foreign commerce of the

United States through the use of ships, and other appropriate craft and motor vehicles for travelling trade fairs, introduced by Mr. SPARKMAN (for himself and other Senators), was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

Whereas the promotion of wholesome commercial relations between the United States and friendly nations serves the cause of peace; and

Whereas the expansion of United States foreign trade is vital to a favorable balance of international payments; and

Whereas American business, industry, and agriculture are producing goods, products, and services not sufficiently well-known in foreign lands; and

Whereas effective merchandising methods require the display and demonstration of products and services and person-to-person contacts; and

Whereas many American businesses, particularly small businesses and agriculture-related businesses, are unable to maintain commercial representation in foreign countries and are in need of such representation; and

Whereas such representation, to be most effective and expeditious, should be able to converse in the languages of respective prospect countries, and should be able to conclude transactions on-the-spot, including all financial arrangements, and the creation of dealerships, agency or other business relationships, and to solve all related problems without delay; and

Whereas the increased availability of United States goods, products, and services would be welcomed in many foreign lands, and at the same time would be a boon to the domestic economy, particularly to distressed areas, small businesses, and agriculture and agriculture-related industries; and

Whereas new marketing methods are necessary to help solve the problem of agricultural surpluses, particularly through the promotion of agricultural products in pre-processed and semiprocessed (ready-to-use ready-to-cook, or ready-to-eat) form; and

Whereas substantial amounts of unused United States monetary entitlements are available overseas in the form of so-called counterpart funds, and such funds could be used to defray in part expenses of travelling trade fairs, and for constructive assistance to foreign customers ready to do business with United States exporters; and

Whereas, the early strength of our Nation was founded in large measure on an adventurous merchant marine, doing business in far-away places: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the Department of Commerce is hereby authorized and directed to institute forthwith a program of mobile trade fairs, using such vessels, aircraft or motor vehicles as may be assigned to it from time to time by other Departments of the Government for this purpose. The President is requested to consider the assignment of the first atom-powered merchant vessel for temporary duty as a travelling trade fair, in addition to such surplus Navy vessels, or idle ships of the reserve "moth ball" fleet, as may be available from time to time. The Navy, and all other Departments of the Government, are authorized to make available such vessels, in a state of good repair and serviceable condition, as may be requested by the President, and to provide such other facilities as shall be required for the effective operation of this program.

SEC. 2. The Department is authorized and directed to refit such vessels, or to originally equip any new vessels, for the special purpose of displaying and demonstrating United States goods in any ports of the

world, and to man and operate such vessels in such manner as may be best calculated to increase United States exports, and to conclude transactions and arrangements on the spot, giving reasonable consideration to the products of small business as well as large, and giving special consideration to products of agriculture and those manufactured in areas of substantial labor surplus. Such vessels may be manned, at the discretion of the President, by personnel in training for positions of future leadership in the United States merchant marine.

SEC. 3. The Department may make available to commercial, industrial, agricultural, and civic organizations within the United States display space aboard such vessels, and quarters and subsistence for such personnel as may be necessary to show and sell merchandise effectively. The Department may make reasonable charges for space and services so furnished, and fees so received may be devoted by said Department to the cost of maintaining and operating such vessels, or other mobile trade fairs. The Department may make reasonable rules and regulations for the conduct of its mobile trade fairs.

SEC. 4. Each such vessel or other mobile trade fair shall be equipped with modern communications devices, so that firm orders can be transmitted to home offices of the United States companies in the shortest possible time. It is the intent of Congress that insofar as possible all transactions and arrangements of whatever kind or description should be finalized aboard ship, or on the spot, and that initial orders in reasonable quantities be filled from supplies carried aboard the trade fair vessel, craft or vehicle. The Department is authorized and directed to use helicopters and aircraft based on converted trade ship carriers, visual aids and any and all other equipment that may assist in dramatizing the ingenuity, resourcefulness, and good will of American business, industry, and agriculture.

SEC. 5. For the purpose of determining policies under which this program shall be carried out, the Secretary of Commerce may use such interagency committees as may now be available to him, or he may create a United States Trade Ships Committee, but in either event the Small Business Administrator shall be among the Government officials assisting in the determination of said policies.

SEC. 6. The Department of Commerce is authorized to expend for the purposes of this Act such so-called counterpart funds as may not be otherwise committed. And in addition thereto, there are hereby authorized to be appropriated to the Department such sums as may be required to carry into effect the purposes of this Act.

SEC. 7. This Act shall be known as the World Trade Ship Act of 1961.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. SPARKMAN. I am glad to yield to the senior Senator from Massachusetts, who is the ranking minority member of the Small Business Committee and a cosponsor of the joint resolution.

Mr. SALTONSTALL. Mr. President, I am happy to join my colleague from Alabama [Mr. SPARKMAN] in sponsoring the World Trade Ship Act of 1961.

This legislation, Mr. President, results from the study which our Small Business Committee has been giving to the problem of increasing small business participation in our foreign trade. Several members of the Senate have sat at public hearings on this matter and have participated in this study.

This work of the committee has resulted in a report entitled "Small Business Exports and the World Market,"

and in S. 1379, which was cosponsored by every member of the Small Business Committee. That bill calls on the Export-Import Bank to set up a comprehensive export credit guarantee system, and creates an Office of Foreign Trade in the Small Business Administration.

We have high hopes for that bill, but the legislation we introduce today may be even more successful in improving our export record in the world market.

Coming from a State whose earliest successes were founded on foreign trade, I am sensitive to what this new legislation can mean to our domestic economy. When our Massachusetts clipper ships sailed to the far corners of the earth a few generations ago, they stimulated prosperity in all their ports of call, and they built ties of friendship which endure to this day.

This resolution which we offer today gives promise of similar far-reaching benefits for United States business and agriculture. It indicates that we are ready once again, as we were in clipper-ship days, to compete vigorously for foreign trade.

We propose, of course, to compete with all the skill and vigor at our command, and with all the ingenuity and persistence which our businessmen customarily use in the domestic market.

Healthy competition has been good for our domestic economy; it can be good for our foreign trade. Far from being afraid of it, we welcome the competition; we accept the challenge.

I hope that other Members of this honorable body will want to join us in cosponsoring this constructive legislation.

Mr. SPARKMAN. Mr. President, I appreciate the remarks of the distinguished Senator from Massachusetts. In the course of my remarks I referred to the Senator from Massachusetts as being a member of the Small Business Committee. Of course the same thing applies to the Senator from West Virginia [Mr. RANDOLPH], a cosponsor, the Senator from New York [Mr. JAVITS], a cosponsor, and to the Senator from California [Mr. ENGLE], a cosponsor. I am pleased that the Senator from Alaska [Mr. GRUENING] has asked that his name be added to the bill also.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. SPARKMAN. I am glad to yield to the Senator from West Virginia, my distinguished and valuable colleague on the Small Business Committee.

Mr. RANDOLPH. Mr. President, this is an important proposal, and I am happy to associate myself with our distinguished chairman of the Senate Small Business Committee.

My interest is stimulated, because in the refitting and organization and scheduling of these vessels, we will give reasonable consideration to the products of agriculture and to the products which are manufactured in substantial labor surplus areas of the United States. I am in favor of the general purposes of the joint resolution, but I applaud especially the consideration given to small business, as well as to large business, to agricultural products as well as to prod-

ucts manufactured in the distressed labor areas in the country.

I am gratified that West Virginia coal is now being exported to Japan. I hope that this resolution will increase such trade in many lands.

I commend our diligent chairman for the sponsorship of the proposed legislation, and I am gratified to join him in its sponsorship.

Mr. HUMPHREY. I wish to commend the Senator from Alabama for the proposal. It is not only what is frequently termed an imaginative proposal, but it is also a highly constructive one, and a proposal which is long overdue. It can be carried out with very little cost, and will pay great dividends in returns to the American economy and to our own prestige around the world.

I note that the Senator has requested that the joint resolution be left at the desk for further sponsorship. I am happy to join him in cosponsoring the joint resolution. I shall do what I can to get prompt—in fact, immediate action, if it is possible to do so on the proposal, because it is very much needed.

Mr. SPARKMAN. I appreciate the remarks of the Senator from Minnesota, who, by the way, is another far-seeing and valuable member of the Small Business Committee, and who participated in the reporting of the measure, and upon whose recommendation the proposed legislation is based. I trust note was made of his desire to be joined as a sponsor of the joint resolution.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I am a party to the bill, as the Senator from Alabama has so graciously stated, the purpose of which is the furtherance of a campaign we are waging to stimulate exports. The Senator from Alabama has very graciously added my name, in view of the fact that I have introduced a sort of pilot plant bill on the subject, called the Sparkman-Javits bill. There is a very important point that I would like to make, with the Senator's indulgence.

It is generally thought that export trade is static: That if we get export trade, we are taking it away from someone else. Nothing could be further from the truth. For example, consider the European Common Market, where we have materially increased our export trade in 1960, and which has very materially increased the standard of living in the countries which participate in the market.

We are helping enormous areas by providing public investment, and they are helping themselves through their own indigenous investment in the new type of economy, by some measure of industrialization, some diversification of the agricultural economy, and better health and sanitation. All this creates new wealth and generates new wants. When those wants are stimulated, as the advertising business has shown in this country they can be, the people are stimulated to greater activity and initiative.

In short, we have an enormous new market. We are not taking it away from anyone else. That market will be divided, with everyone getting far more than he got before.

It is only by visualizing these wants, as we would in any other enterprise, that we can understand the impact which will result.

So I agree with the Senator from Alabama. This is an imaginative approach. I think it is important to point out that by stimulating trade with every nation on earth we are building the sum total of foreign trade, not only for ourselves, but for everyone else, and measures of this nature will help to achieve that end.

Mr. SPARKMAN. I thank the Senator from New York. The Senator from New York was largely responsible for the study which was made by the Committee on Small Business of the impact upon import trade and what we must do to stimulate export trade. The bill seeks to implement one of the recommendations made in the report.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. MORSE. Mr. President, I ask unanimous consent to have printed at this point in the RECORD an editorial entitled "New Commerce Yardstick," which was published in the Washington Post this morning. The editorial relates to the Prouty amendment, which the Committee on Labor and Public Welfare adopted and added to the administration's minimum wage bill.

I highly commend the writer of the editorial for his very succinct and clear analysis of the Prouty amendment in its relationship to the bill, and his statement of the importance of the amendment as an improvement to the bill. I hope that every Member of the Senate will read the editorial in connection with a study of the Prouty amendment, because in my judgment that amendment greatly strengthens the bill. In my judgment, it removes in large measure some of the reservations which some of us have held toward the original bill in respect to its definition of interstate commerce.

If those who have had doubts about the effect of the bill on retail and serv-

ice enterprises will read the editorial and study it in the light of the recommendations of our committee, I think they will have no doubt as to their justification in supporting the bill with the Prouty amendment included.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NEW COMMERCE YARDSTICK

The Senate Labor Committee has notably improved the minimum wage bill by adopting Senator PROUTY's amendment. The effect of this change is to put into the bill a meaningful interstate-commerce test of the enterprises to be covered. Retail and service enterprises, with many exceptions, would be required to pay minimum wages if they buy or receive for resale in 1 year more than \$250,000 worth of goods that have moved in interstate commerce. A previous exemption remains in the bill excluding from coverage also those firms with gross sales of less than \$1 million.

In our opinion, the bill would be more satisfactory and less controversial if its sponsors had used the PROUTY approach in the first place. Much of the opposition in the Senate is directed against the sweeping language of the bill which seems to assert a potential policy of covering any retail or service employee who handles any item that has at any time been moved across a State line. This is now modified, of course, to apply only to employers doing a substantial interstate business. The same result might have been obtained with less furor by making the terms of the act directly applicable to all enterprises engaged in interstate commerce to the extent of \$250,000 or more.

Now that a new and acceptable interstate-commerce test has been applied, moreover, why should the additional yardstick of \$1 million in gross sales be retained at all? The effect is to exclude some enterprises that are doing a substantial interstate business and might well be covered. The \$1 million cutoff was placed in the bill only because the definition of interstate commerce had been made so sweeping. Now that retail and service establishments with only minor and incidental dealings in interstate commerce have been eliminated, there seems to be no logical reason for having a gross sales test at all.

It is true that the National Labor Relations Board limits its jurisdiction by a monetary test. But this is only because it is not administratively feasible to supervise the labor relations of many small firms. The same consideration is scarcely applicable to the minimum-wage requirement. It is well to remember that the Senate bill as it stands would cover fewer than half of the retail and service employees of the country, in part because of the high gross-sales exemption. This provision could be eliminated from the bill by a very simple amendment. The issue between the Senate and House would then be chiefly one of the proper commerce yardstick to apply.

APPOINTMENT OF TEODORO MOSCOSO AS U.S. AMBASSADOR TO VENEZUELA

Mr. HUMPHREY. Mr. President, the Senate has confirmed the nomination of Mr. Teodoro Moscoso, one of the great leaders of Puerto Rico, to be the U.S. Ambassador to Venezuela. Mr. Moscoso's fellow Puerto Rican, Arturo Morales Carrión, was previously named a Deputy Assistant Secretary of State in the Bureau of Inter-American Affairs.

These two outstanding citizens of the United States, residents of Puerto Rico,

examiner who has already forecast the end of all passenger train services in this country, the fate of the future railroad passenger train accommodations for many thousands of people is to be decided.

As I have already pointed out—but it needs to be repeated again and again for emphasis—a great many of the communities now served by these Milwaukee trains will, if discontinuance is permitted, be left without any remaining passenger train service. In the great Northwest, where mountains and snow frequently limit highway service, this would impose real hardship and seriously disrupt the local economy. In most of these communities, it is a considerable distance to the nearest competing railroad center, and thus the loss of service in this area is perhaps many times more beautiful than it is in areas where competing railroad lines are comparatively close together.

Although the Interstate Commerce Commission felt that it needed only six hearings to determine whether or not it should let the Milwaukee end its once-great transcontinental train service, it is clear from the public interest evidenced at these hearings that the public does not regard such treatment as adequate. In fact, although the hearings in Minneapolis were originally scheduled to last only 1 day, I am told that so many witnesses against abandonment turned out that the original hearing room in the Federal Building was overcrowded and the hearings had to be moved to the Grain Exchange Building and were continued into the second day. It is my understanding, that only two witnesses spoke in favor of the abandonment, while a great many appeared in opposition, including the mayors of both Minneapolis and St. Paul, representatives of other communities and several major business enterprises, who were also concerned over the inadequacies of mail and express service that would result from the discontinuance.

I realize, of course, that the railroad industry, like all other common carriers, has encountered new problems in recent years, but I cannot accept this as sufficient reason for permitting the railroads to destroy and wipe out services which are still essential. It seems to me that the proposal to discontinue the Olympian Hiawatha trains should make clear to the Congress that railroad management is now seeking to use the provisions enacted as part of the Transportation Act of 1958 to eliminate trains on a scale which never was contemplated by the Congress when it approved this measure.

It is not surprising in such circumstances that last December, at its meeting in Las Vegas, Nev., the National Association of Railroad and Utilities Commissioners adopted the following resolution regarding the Transportation Act of 1958:

RESOLUTION REGARDING THE TRANSPORTATION ACT OF 1958

Whereas the Transportation Act of 1958 has emasculated State authority in regulation of railroads, and

Whereas the States, at least in name, retain their responsibility to regulate, but

without commensurate power: Now, therefore, be it

Resolved, That the National Association of Railroad and Utilities Commissioners requests the Congress to reevaluate the effects of the Transportation Act of 1958, with a view to restoring State authority.

While I have some doubts about the wisdom or necessity of restoring full control over this important matter exclusively to the State commissions, since some States do not have adequate regulatory means, I am in full accord with the Commissioners' assertion that the Transportation Act of 1958 must be reevaluated and amended. In any case, power to regulate in the public interest must be placed in the hands of whatever agency is given the responsibility for such regulation, and under the 1958 amendment it is clear that the ICC does not have such power.

In regard to railroad mergers, there is also grave doubt in my mind that, under existing law, the Interstate Commerce Commission has adequate powers to protect the public from the present threat of some railroad managements to cripple and curtail our railroad system through consolidations of railroad properties.

Besides wanting to eliminate passenger train services, the Milwaukee road is now reported to be moving ahead with plans for a merger with the Chicago & North Western Railway which would produce a new railroad larger than any now in existence in this country, involving 21,325 miles of track in 15 States. At the same time, four other railroads serving the great Northwest, the Great Northern, Northern Pacific, and Burlington, and the Spokane, Portland & Seattle Railway also are moving toward a merger, which would create an even larger single railroad of 24,728 miles of track. Also affecting the same great Northwest region is a third merger proposal, involving a struggle between the Santa Fe and the Southern Pacific for control and merger with the Western Pacific.

Each of these merger proposals involves highly profitable railroad enterprises, and they originate, not out of any overall plan of the railroad industry for the creation of a more efficient national railroad network, but out of individual plans, developed by the management of the carriers to be merged, solely for improvement of the competitive and financial situation of just the railroads involved. In each case, the alleged savings which the backers of mergers have advanced in justification depend largely upon curtailment of service and elimination of parallel track and facilities. If these mergers were to be put into effect, many communities would be left without railroad service, many thousands of railroad employees would lose their jobs, and the future industrial expansion potential of the region these carriers serve would be gravely limited. Against these severe negative factors, the proponents of merger advance only the promise of greater profits for the railroads involved.

Actually, there is widespread doubt even in the railroad industry that the financial gains for the comparatively few interests that would benefit are sufficient to offset the adverse effects that would

follow. Actually, some in railroad financial circles say that the impetus to the proposed merger of the Milwaukee and the C. & N.W. stems more from a desire on the part of the Milwaukee management to protect itself against the adverse effects of the proposed Great Northern, Northern Pacific and Burlington merger than upon real enthusiasm for the merger with C. & N.W. In fact, there is a fight now going on within the management of the Milwaukee itself with five directors, led by Mr. J. Patrick Lannan, threatening a proxy fight to block the move. Mr. Lannan charged recently that the proposed terms had been "loaded" against the Milwaukee stockholders by two big insurance firms, Metropolitan and Equitable, which have huge holdings in the two roads.

The situation on the Milwaukee is not unique in railroad management circles at the present time, and some of the most vigorous opposition to railroad mergers is coming from carrier managements representing the roads who will suffer severely if the proposed consolidations are allowed to take place.

One would think that, under these circumstances, the Interstate Commerce Commission, which is required by law to consider the public interest in all consolidations and mergers of railroad properties before granting this approval, would be taking a good hard look at the effects upon competition which the score of pending merger proposals would have if put into effect. Instead, the Commission has apparently decided to wipe its hands of all concern for the weaker carriers who will be adversely affected. In its decision approving the Erie-Lackawanna merger, for example, the Commission ruled that the complaints of competing railroads, which would suffer from the competition of the merged road, should be dismissed in the interest of an alleged public good.

Moreover, the Commission has also apparently decided that it will duck its responsibilities entirely in regard to considering whether proposed consolidations will help strengthen or hurt the overall national railroad system. When it was asked last year by the New York Central Railroad to hold up all merger proceedings until it had investigated their effects upon competing railroads and worked out a plan for the most efficient coordination of the railroads, the ICC turned down this request on grounds that it was not warranted. The result is that the Commission, in effect, has given notice that it does not intend to weigh the long-range, overall rail transport needs of the Nation in acting upon pending merger applications. At the same time, members of the Commission have been making speeches throughout the country, urging railroads to develop merger plans, and promising that they would be given as favorable consideration as possible when they are acted on by the Commission. This kind of cavalier treatment of a problem having such far-reaching effects hardly seems in keeping with the mandate Congress has given to the ICC to make its approval of railroad mergers conform to the public interest.

Frankly, I cannot understand how the Commission can square that responsibility without first formulating a clear-cut policy for railroad consolidations and developing a long-range plan that would insure that such consolidations do not result in curtailed competition and monopoly control. Such a plan, too, would have to consider the adverse effects which each merger proposal would have upon the potential for future economic growth of the regions affected, and, as Congress has already made clear, the adverse effect upon employment of such mergers is definitely a part of the public interest and must be adequately weighed and protected in all merger proceedings.

Along with this, of course, the financial situation of the railroad industry and of the individual carriers is properly a matter for consideration and review. In this connection, however, I want to call to the attention of the Congress and the Commission the remarks made by James F. Oates, Jr., president of the Equitable Life Assurance Society before the 1959 annual meeting of Equitable's board of directors. Mr. Oates, whose firm has been charged with being one of the prime motivators of the Milwaukee-C. & N.W. merger proposal, then stated:

Despite the problems railroads have faced in recent years and the publicity accounted them, our investment in the field has been most profitable. Our rail portfolio is sound overall and we look forward to continued satisfactory investment experience in this field. As generally recognized, there is no substitute for the railroads in moving heavy loads over long distances. Railroad transportation is still essential to the welfare of America in peace as well as in war.

From this, one would gather that the financial interests who have invested in the railroads are doing well, and that there is no compelling need to eliminate essential services to the public or to tear up thousands of miles of track as many railroad managements are now proposing. The Equitable is reported to now have some \$814 million invested in railroad securities, representing over 20 percent of the total investments made by all life insurance companies in the industry, so that its experience is by no means a limited one.

It is also heartening to note that Mr. Oates, besides stressing the most profitable nature of railroad investments, has called attention to the indispensable nature of railroad services. This is a factor which surely must be weighed as being even more important to the national interest than the rate of return on railroad investments. The availability of dependable, efficient railroad transportation is essential to the future welfare of business in general. It often determines whether or not an enterprise can compete, and it is certainly a major factor in determining whether or not men are employed and a community is prospering.

A manufacturer must be able to obtain raw materials at a proper transportation cost, and he must be able to get his goods to market at a rate that matches his competitors. Because of these considerations, the public interest

certainly requires that the Government should take whatever actions may be necessary to insure the preservation of adequate, efficient and competitive railroad transportation facilities.

I say that the Government must act, because clearly the management of the railroad industry in recent years has not been acting to preserve that kind of railroad transportation. It is clear that many railroads have determined to jettison passenger traffic, and they have succeeded, in many instances, in making it so unpleasant and inconvenient that countless thousands of travelers are now being forced to turn to other forms of transportation. Other railroads are cutting back on other services, such as mail transportation and less-than-carload freight, and now we are confronted with a widespread merger movement, bringing with it further proposals for cutting back railroad services. The concept of service, the foundation of any vital industry, is rapidly disappearing from railroading.

It is not enough for the railroads to tell us that they will reinstitute service if there is a future demand for it and sufficient traffic is offered. Shippers, having traffic at hand, must move it over the mode of transport that is available. They cannot depend on promises when the survival of their business is at stake.

Shrinking of the potential for railroad service—which is implicit in the current actions of railroad management in regard to passenger service, small freight shipments, mail and express, and through merger and consolidation moves—certainly is not the way whereby the railroads can expand their income in the future. To get more business, the railroads must provide more—not less—service, yet too many railroad managements today, instead of seeking new ways to expand their services to attract additional business, appear to be devoting all of their energies to finding means of curtailing and shrinking their operations.

In view of what is happening in the railroad industry it is imperative that this Congress take a good, hard look at the whole subject and act to amend the Transportation Act of 1958 so as to better protect the public interest.

Mr. President, the railroad mergers in the Midwest are becoming a matter of serious public concern. They are of vital concern to the people of Minnesota.

It is one thing for the railroad industry to consider only its so-called immediate operational efficiency pattern. It is another thing for the Interstate Commerce Commission to consider the public interest.

My remarks today are directed toward what I call the public interest, which the Interstate Commerce Commission was designed in part to protect. Of course, the Interstate Commerce Commission has the responsibility of establishing equitable rates and tariffs for transportation of all forms. It also has the responsibility of protecting the public interest.

An ever-increasing number of people in the Midwest, where we must depend in large measure upon rail transportation,

are becoming deeply concerned over the patterns of railroad consolidation and merger. In that part of the country the winters are severe, and we need railroads which can serve the needs of our people. It is the duty of the Interstate Commerce Commission to protect and preserve the needed service, and at the same time to provide the railroads with an opportunity to make a legitimate profit on their overall investment. In that connection, I emphasize the words "overall investment."

If the Equitable Life Insurance Co. is willing to invest in railroad securities more than \$800 million of its assets, and if it finds that those investments are well protected and yield a good return, it seems to me there is still some profit in the railroad business. I hope there is, because surely this industry deserves a fair return upon its investment.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. JAVITS. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment offered by the Senator from New York will be stated.

The LEGISLATIVE CLERK. It is proposed, on page 37, line 15, to add the following:

And rates of pay in hotels, motels, and restaurants and other food service enterprises.

At line 19, add:

And the complex problems involving rates of pay of employees in hotels, motels, restaurants and other food service enterprises who are exempted from the provisions of this Act.

Mr. JAVITS. Mr. President, the purpose of my amendment is to add to section 12 of the bill, which calls for a study by the Secretary of Labor of agricultural, handling, and processing exemptions, a study also of the exemption afforded under the act with reference to hotel, motel, restaurant, and other food service employees, it being emphasized that if they had been included under the act they would have been included subject to the \$1 million and other restrictions upon coverage relating to interstate commerce.

I may say to my colleagues that I fought rather hard—at least I thought it was a vigorous effort—to do something for the nontipped employees in hotels, motels, and restaurants, those who, based upon my own knowledge, greatly need our help in respect to minimum wages.

In New York they are covered by a \$1 minimum wage. In other States they are not covered, and are often in

the most depressed areas in terms of compensation. But the point of view of my colleagues was so strongly against me—indeed, my own was the only vote in favor of the proposal—that I had to yield to their judgment that the proposal was inopportune for inclusion in this bill. However, this is an exemption which can certainly make these employees feel that they are being discriminated against, though they need our ministrations as much as do any other employees covered under the act. So, at the very least, let us direct the attention of the Department of Labor to their problems, so the Department can at least get the facts.

The need for such a study is borne out by the statement of Secretary of Labor Goldberg, who, in the hearings in March, stated:

With respect to hotels, motels, and restaurants, we do not believe that we have sufficient information at this time regarding the complex problems involving rates of pay for tipped employees in these establishments to recommend that they be brought under the act. It was also considered undesirable to fragment the coverage of the act by bringing nontipped employees under its protection, while excluding tipped employees of the same establishment. One of the objectives of the bill is to minimize those areas in which fragmentation of coverage already exists. This whole matter should be studied further, and I can assure you that the Department will make such a study.

On the question of fragmentization, I need only point out that, in leaving the bill as it is, we are certainly fragmentizing enough. I can think of nothing more fragmented than department store or drug store sales clerks being covered, and department store lunch counter employees or dishwashers remaining uncovered under the bill.

Be that as it may, I hope the committee will make this much of a concession, so that the subject will be carefully looked into. I hope very much that the chairman of the subcommittee, the Senator from Michigan [Mr. McNAMARA], will deem it appropriate to accept the amendment.

Mr. McNAMARA. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. McNAMARA. I am glad the Senator called attention to the position taken by the Secretary of Labor when he was before our committee, because it expresses the view of the majority of the members of the Committee on Labor and Public Welfare. The Secretary recognized the need for legislation in this area, as does the Senator from New York. Speaking for the committee, and as chairman of the subcommittee, we will accept the amendment presented by the Senator from New York.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from Florida.

Mr. HOLLAND. Am I correct in my understanding that the amendment does not include within the purview of the bill employees of motels, hotels, and restaurants?

Mr. JAVITS. It does not. I regret to report that I was resoundingly defeated

in committee, and I shall not bring that amendment to the floor.

Mr. HOLLAND. That is the first good news I have heard today, and I congratulate the Senator on his candor.

Do I correctly understand the purpose of the amendment is simply to include a study of hotel, motel, and restaurant employees within that section of the bill which provides for a study of various agricultural and processing enterprises, and for a report thereon?

Mr. JAVITS. Precisely. I know the Senator's views of the bill; but I say to the Senator, whether one is for or against the bill, if it is enacted into law we would certainly want to see whether it is effective or whether it is applied in a discriminatory way; and this proposal will at least give us authoritative facts.

Mr. HOLLAND. Since it provides only for an increase in the field of study, and the Senator knows that those of us who have very strong feelings against the bill have felt that the subject matter needed further study, I would have no objection to inclusion in the bill of the proposed amendment.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from Minnesota.

Mr. HUMPHREY. I merely wish to associate myself with the Senator's proposal and express myself in support of it. I think it is very meritorious, because, surely, this particular group of workers has, in the mind of many of us, a just claim for inclusion under the bill. The proposal will give them an opportunity to have a study made.

As I understand, there will be a report filed, so the Congress will have the benefit of the particular study into the motel, hotel, and food service industry. Is that correct?

Mr. JAVITS. The Senator is correct. A study must be made, under the terms of the bill. It directs the Secretary to include this item, as well as the agricultural item.

Mr. HUMPHREY. I commend the Senator. I trust the amendment will be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York [Mr. JAVITS].

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was adopted.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is on agreeing to the committee amendment, as amended.

Mr. HOLLAND. Mr. President, earlier in the day the Senator from Florida stated that he proposed to offer an amendment relating to a re-enactment of the exemption of retail stores and service establishments in the precise substance as that provided by the amendment in the 1949 law which the

Senator from Florida offered at that time, and which was adopted. The Senator from Florida advised the Senate that he was informed certain revisions of his proposed amendment were required by changes in the draft of the bill. I have now had handed to me what I understand to be the work of the Senate legislative counsel, and also my own legislative staff, which adapts my proposed amendment so as to make it apply, as I am advised, to the bill as reported.

I submit that amendment now for the sole purpose of having it printed so it may lie on the table.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. HUMPHREY. Is the Senator going to explain the amendment?

Mr. HOLLAND. I was going to.

Mr. HUMPHREY. Please do.

Mr. HOLLAND. I have not had an opportunity to read it, as I explained on the floor, but this amendment, though it sounds very complicated in form, would simply reenact, without change at all, the exemptions of retail businesses and service enterprises that were afforded by the amendment which bears my name, and which was voted in 1949.

That is the intention. If there is any departure from that intention, the Senator from Florida will be surprised.

I make the statement at this length because the amendment proposed, as a result of the different form in which the bill is proposed this year, has had to be addressed to some eight different sections of the bill; and, frankly, I think it would take a very careful study to make sure that it does what I am advised by the Senate legislative counsel it does.

Mr. McNAMARA. If we can study the amendment which the Senator holds in his hand, we may be able to agree on it. I would like to be able to check it.

Mr. HOLLAND. I shall be glad to supply it first to the Senator from Michigan. What I was planning to do was to have it printed and lie on the table. It is so complex—

Mr. McNAMARA. If that procedure suits the Senator from Florida, it is satisfactory to me.

Mr. HOLLAND. I shall be glad to suspend the request until the learned Senator from Michigan and his counsel can examine it. It applies to eight sections of the bill, as I am informed, in the opinion of the legislative counsel.

Mr. McNAMARA. May we have a copy of it?

Mr. HOLLAND. I shall be very glad to have the Senator examine it.

Mr. President, I ask that the amendment be printed and lie on the desk, and that in the meantime the Senator from Michigan [Mr. McNAMARA] be allowed to make a copy of it for his own perusal and for perusal by counsel, because we are together in wishing to have it mean only one thing; that is, if agreed to, the amendment would reenact the exemptions in the field which I have mentioned without change. If the amendment is not agreed to, at least it will represent

a sincere effort to accomplish that result.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the desk.

Mr. McNAMARA. We hope, upon examination, we shall be able to agree with the interpretation of the Senator, and I think we shall.

Mr. HOLLAND. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROUTY. Mr. President, a study

of State laws makes it unmistakably clear that they do not give adequate protection to workers left uncovered by the Federal Fair Labor Standards Act.

In at least 21 States there are no minimum wage safeguards for employees in the retail trade. Furthermore, 14 of the States that do have laws apply them only to women or women and minors, they do not cover male employees.

Finally, the minimum wage requirements which are in effect at the State level are in most cases woefully inadequate; 16 cents an hour is the minimum wage in one State and it has been the requirement since 1915; 22 cents an hour is the standard in another. A third State has a general \$11 to \$15 weekly minimum and this amounts to about 23 to 31 cents hourly for 48 hours.

Only 12 States have general minimums of \$1 or more, and 2 of these safe-

guard only women, not men. I am very happy to say that my own State of Vermont is one of the 12.

I respect the views of those who say with respect to additional minimum wage coverage, "Let the States do it," but I say to them in all candor that the Fair Labor Standards Act has been on the Federal statute books for 23 years and the States have done very little to implement it.

So that all Senators will have an opportunity to observe the lack of State action in the wage and hour field and the deficiencies in the State laws that do exist, I ask unanimous consent to insert at this point in the RECORD a table containing a summary of State minimum wage requirements.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—Summary of State minimum wage requirements, February 1961

State	Hourly minimum ¹	Covers ²	When set	State	Hourly minimum ¹	Covers ²	When set
Alabama.....	None.....			New Jersey.....	35 to 40 cents.....	2 industries ³	1940, 1942.
Alaska.....	\$1.50.....	Most industries.....	1959.		80 cents to \$1.....	3 industries.....	1956.
Arizona.....	47 to 55 cents (\$18.72 to \$21.60 per week).	3 industries ³	2 in 1948, 1 in 1954.	New Mexico.....	\$1.25 to \$1.50.....	1 industry.....	1961.
Arkansas.....	16 cents (\$1.25 a day).....	Most industries ³	1915.	New York.....	75 cents.....	Most industries.....	1957.
California.....	\$1.....	do ³	1957-58.		\$1.....	Most industries.....	1960.
Colorado.....	60 cents to \$1.....	4 industries ³	1956.	North Carolina.....	\$1.05.....	2 industries.....	1958-1959.
Connecticut.....	\$1.....	Most industries.....	1957.	North Dakota.....	50 to 75 cents.....	Most industries.....	1960.
	\$1 to \$1.25.....	Beauty shops.....	1958.			5 industries ³	1949, 1953, 1956, 1957, 1959.
Delaware.....	None.....			Ohio.....	25 to 36 cents.....	2 industries ³	1935, 1941.
District of Columbia.....	75 cents to \$1.10 (\$30 to \$44 per week).	7 industries ³	1957-60.		70 to 90 cents.....	2 industries.....	1956, 1959.
Florida.....	None.....			Oklahoma.....	None.....		
Georgia.....	None.....				65 to 70 cents.....	2 industries ³	1951-52.
Hawaii.....	\$1.....	Most industries.....	1957.	Oregon.....	75 cents.....	8 industries.....	1953-57.
Idaho.....	75 cents.....	do.....	1955.		\$1.....	2 industries.....	1959.
Illinois.....	None.....			Pennsylvania.....	80 cent to \$1.....	5 industries ³	1959, 1961.
Indiana.....	None.....			Puerto Rico.....	25 cents to \$1.....	Most industries.....	1956-60.
Iowa.....	None.....				\$1.....	Most industries (more than 3 employees).	1957.
Kansas.....	None.....				75 cents.....	Nonprofit organizations.	1957.
Kentucky.....	40 to 50 cents.....	Most industries ³	1947.	Rhode Island.....	50 to 95 cents.....	Establishments with 3 or few employees (4 industries).	1947, 1951.
	20 to 28 cents.....	Laundry, drycleaning, and dyeing.	1942.				1954, 1958.
Louisiana.....	None.....			South Carolina.....	None.....		
Maine.....	\$1.....	Most industries.....	1959.	South Dakota.....	22 to 28 cents (\$12 to \$15 per week).	Most industries ³	1943.
Maryland.....	None.....			Tennessee.....	None.....		
Massachusetts.....	\$1.....	Most industries.....	1957.	Texas.....	None.....		
	\$1.15.....	Building service.....	1960.	Utah.....	75 cents to \$1.....	4 industries ³	1960.
Michigan.....	None.....			Vermont.....	\$1.....	Most industries.....	1959.
	23 to 31 cents (\$11 to \$15 per week).	Most industries ³	1938.	Virginia.....	None.....		
Minnesota.....	35 cents.....	2 industries.....	1939.	Washington.....	\$1.....	Most industries.....	1959.
	70 to 85 cents.....	3 industries.....	1957.	West Virginia.....	None.....		
	85 cents to \$1.....	1 industry.....	1959.	Wisconsin.....	75 to 85 cents.....	Most industries ³	1960.
Mississippi.....	None.....			Wyoming.....	75 cents.....	do.....	1955.
Missouri.....	None.....						
Montana.....	None.....						
Nebraska.....	None.....						
Nevada.....	\$1.....	Most industries ³	1957.				
	\$1.....	Most industries.....	1959.				
New Hampshire.....	75 to 80 cents.....	Specified occupations and industries.	1959, 1960.				

¹ The rates shown are for full-time, experienced, adult workers. Some States have set other minimums for part-time, inexperienced, or younger workers.

² Where 1 rate covers a substantial variety of industries, it has been listed here as covering "most industries." (Most States have exempted certain industries or

occupational groups: farm workers, for example, are protected in only a very few States.)

³ Covers only women and minors or women and minor girls. Only 14 States and Puerto Rico cover both men and women.

Sources: U.S. Department of Labor and Bureau of National Affairs, Inc.

BIG BUSINESS IN THE RETAIL TRADE

Mr. PROUTY. The corner grocery store, drugstore, or variety store, of yesterday has been to a large extent replaced by giant retail chains. Large retail establishments cover about 4 percent of the total number in the United States, but they account for 43 percent of all retail sales, 43 percent of all retail employment, and 45 percent of all retail payrolls.

In 1957, 1 million retail firms were responsible for \$200 billion in gross sales. Twenty of the largest retailers had approximately \$21 billion in gross sales in

1957, or over 10 percent of the total sales for all stores, and they operated about 11 percent of all the stores.

It is common knowledge that the size of the typical retail enterprise keeps increasing. In 1957, 17 leading department store chains did a business volume of \$5.5 billion; 5 mail order companies did a \$4.9 billion volume; 11 variety chain systems did a \$2.2 billion volume.

Business concentration is particularly evident in the retail food industry. Three retail food chains had sales in 1959 amounting to a combined dollar volume of \$9.3 billion. This was over

18 percent of American food sales. Five other retail chains took in an additional \$3.5 billion in sales. These top eight companies alone took in almost 25 percent of the entire \$51.7 billion spent on food in 1959 by the people of this Nation.

It would overburden the imagination to attempt to calculate the staggering impact these stores have upon interstate commerce.

I believe that these retail giants can afford to pay a decent minimum wage to their employees. The Department of Labor has shown that about 20 per-

cent of the employees of retail establishments earn less than \$1. Tragic to say, the Department survey points out that very large retail enterprises have a greater proportion of employees receiving substandard wages. The proportion in retail enterprises with 11 stores or more that paid under \$1 an hour was 28 percent in comparison with 26 percent for 1-store enterprises and 23 percent for enterprises with 2 to 10 stores.

These facts seem to indicate that a wage-and-hour bill will help the small merchant encounter the competition of the large chains.

THE NEED FOR MINIMUM WAGE INCREASES

A. INCREASE IN THE COST OF LIVING

Between the spring of 1956 and January 1961 the Consumer Price Index rose about 11 percent. Therefore, the purchasing power of the dollar minimum wage is considerably less than it was when the rate first took effect. Since 1956, the real earnings of workers whose wages are determined by the level of the Federal minimum have gone down, and this has happened during a period when the real earnings of most workers were on the upgrade. To merely restore the purchasing power of the 1956 rate we would have to increase the minimum wage to \$1.11.

B. RELATION OF MINIMUM WAGE TO AVERAGE HOURLY EARNINGS

In 1949, the 75-cent minimum wage was equal to 54 percent of the average hourly wage in manufacturing which was then \$1.39. In 1955, the \$1 minimum wage amounted to 53 percent of the average hourly wage in manufacturing, then \$1.88. In December of 1960 average hourly earnings in manufacturing were \$2.32, but the Federal minimum wage was only 43 percent of this figure. These facts make it apparent that those depending on the minimum have not only failed to enjoy the substantial increases received by other workers but have actually lost ground.

During the 1956 to 1960 period average hourly earnings increased by 19 percent. In some of the higher wage manufacturing industries wages have increased by even greater percentages. In some of the nonmanufacturing industries earnings have jumped 25 percent or more in the last 4 years. This is true in the contract construction and utilities fields.

C. INCREASE IN PRODUCTIVITY

The average real product per man-hour in the private sector of the economy was \$2.80 in 1956 and \$3.08 in 1959, an increase of about 10 percent. The best estimates available indicate that the average for 1960 is 1.13 times that for 1956. I have already pointed out that we could justify an increase in the minimum from \$1 to \$1.11 simply on the increase in the cost of living. Certainly a modest jump over the \$1.11 rate could be justified by making allowance for the increase in productivity.

D. INCOME NECESSARY FOR DECENT STANDARD OF LIVING

The studies of some 13 States concerning the amount of money a single woman needs to maintain herself at minimum health and decency standards indicate an average income require-

ment exceeding \$2,500. Of course the amount of money needed to take care of the requirements of a wage earner with a large family would be considerably more.

The present statutory minimum of \$1 an hour means an average annual income of only about \$1,600, assuming 1,600 hours of work, which seems to be the average.

I know there is much disagreement about how large a minimum we should approve in Congress this year, but I am sure we all recognize that the \$1 rate falls far short of providing even the bare necessities of life.

E. LOW WAGES IN THE RETAIL TRADE

The declared policy of the Fair Labor Standards Act is to eliminate as rapidly as practicable, without substantially curtailing employment, substandard labor conditions in industries engaged in commerce or in the production of goods for commerce. Coverage under the present act is too limited to meet this objective. Twenty-four million workers are now protected by the act's \$1 minimum wage. However, 20 million other wage and salary workers are not protected by the Federal law. A substantial proportion of these workers, many of whom are paid low wages, could appropriately be brought under the act.

About half of the 20 million workers are employed in the retail and service trades. Millions of those workers are employed by enterprises which are engaged in interstate activities to a substantial extent. Extension of protection to these workers would greatly improve the effectiveness of the Fair Labor Standards Act.

Large numbers of the workers in the retail and service trades are paid substandard wages. This is disclosed by the Bureau of Labor Statistics Bulletin 1120. This bulletin indicates that nationwide, 45 percent of the workers in the retail trade are paid less than \$1.15 and one-fourth of these workers are paid less than \$1. In one area 64 percent of the retail workers are paid less than \$1.15, and 45 percent are paid less than \$1 an hour.

The low wage problem is particularly evident in nonmetropolitan areas. Labor Department surveys show that in some nonmetropolitan areas 71 percent of the retail workers earn \$1.15 or less, and 54 percent of the workers earn less than \$1. Even considering the Nation as a whole, we find that 57 percent of the retail workers in nonmetropolitan areas earn \$1.15 or less per hour, and 50 percent of these workers earn \$1.05 or under.

While there may have been some improvements in the earnings position of these workers since the time of the survey, the proportion paid low wages has probably not changed substantially. This is suggested by wage surveys which were conducted by the Department of Labor in 1959 in six small localities. In these localities more than two-fifths of all workers in retail trade were paid less than \$1 an hour. These locality surveys also indicate that wage levels in the service industries are also very low.

If the minimum wage protection is not provided for these employees, their

earnings will continue to lag behind the earnings of workers who are now protected by the act. Many of these workers are employed in areas which are characterized by an oversupply of labor, and wages are held down as a result of competition for jobs.

Perhaps I have been a little overindulgent in the use of statistical material, which is not always an interesting approach to employ, but I do feel it is necessary to bring forth these figures in order to demonstrate beyond any doubt that we have thousands, and even millions, of workers working at wage levels which are below the most modest standards of decency.

MINIMUM WAGES AND UNEMPLOYMENT

Whenever we discuss minimum wages it is appropriate to consider the impact that proposed changes will have on the employment situation. The finding and declaration of policy in the Fair Labor Standards Act states that undesirable conditions should be eliminated "without substantially curtailing employment or earning power."

We are now in a state of recession, and we all hope that this recession is "bottoming out" and that the economy will be on the upgrade. We should not overlook the fact, however, that substantial numbers of people are still without work. In his testimony before the House Ways and Means Committee only a few days ago, Secretary Arthur Goldberg characterized the problem in the following manner:

As we all know, unemployment in this country has assumed serious dimensions. We are experiencing high levels of unemployment not only because we are now in a recession, but because we have had a gradual rise in unemployment, apart from recessions over the last decade.

Clearly the current situation is grave enough to warrant immediate attention * * *. Unemployment in our modern industrial society has a direct and immediate impact on the worker affected and his family. It undermines the spirit of the worker. It destroys his ability to maintain a decent standard of living for his family. Equally important are the destructive effects of unemployment on the economic health of our communities and the Nation.

The experience under the 1955 Fair Labor Standards Act, when the minimum wage was made \$1 an hour, may be pertinent in connection with the legislation now before us. More than 2 million workers out of 24 million then covered by the act were directly affected by the last wage increase. The Labor Department estimated that this involved a direct annual increase of \$560 million in the wage bill, or eight-tenths of 1 percent of the total wages in employment covered by the FLSA.

To a certain extent we have to look to the 1956 increase and analyze the impact it had upon prices and employment if we are to accurately gage the effects of the action we are going to take.

In 1957, 1 year after the 1956 minimum wage boost became effective, the Secretary of Labor had this to say in a report to Congress:

Prices of some of the products of low-wage industries may have been increased as a result of the minimum wage, but the amount of such increases does not appear to be sufficient to alter the general trend

of the Wholesale Price Index." (Studies of the Economic Effects of the \$1 Minimum Wage, March 1957, p. 14.)

Elsewhere in the same report, the Secretary of Labor concluded:

Price increases of some products of the low-wage industries appear to be attributable, at least in part, to the minimum wage increase. However, prices for other products of low-wage industries did not increase during the past few months of the \$1 minimum wage (p. 4).

While in most instances small retail firms are not covered by the pending legislation, if these small firms are competing for labor in the same market, they may, in many cases, be forced to adjust wages upward to compete with larger operations covered by the Federal statutory standards.

We must recognize also that if we set the statutory minimum too high for newly covered workers, there will be measurable employment effects. For instance, a lower demand for workers in some low wage retail and service firms may result if employers reduce unit labor costs by releasing less productive workers, or if price increases reduce demand.

Although the 1956 rise in minimum wages did not carry with it an extension of fair labor standards coverage, it is well to take note of what happened in the industries affected by the 1956 rise.

The Department of Labor studies demonstrates that employers affected by the increased wage costs used a variety of actions to adjust to the new labor expense. This is what a Library of Congress report has to say about the matter:

The Department studied the actions of 1,105 plants in the low wage industries. It found that 45 percent of the plants increased expenditures for machinery and equipment; almost one out of four plants attempted to increase productivity through changes in work procedures * * * about one out of seven firms reported reduction in labor force.

My purpose throughout my work on wage and hour legislation in the past 2 years has been to try to shape a proposal which would permit absorption of the required increases in wage costs without substantial curtailment of employment or a significant adverse impact on the economy. If Congress does not make the right decision in framing a fair labor standards bill, it will find itself helping some workers in need of minimum wage protection and taking away jobs of other large numbers of low-paid workers.

In this connection, I point out that according to the Department of Labor the \$1 minimum wage law did cause some drop in employment in the affected industries. The Department had this to say:

Employment tended to decline in the low-wage industries, and in most cases more markedly in those segments of the low-wage industries where wage rates had been increased most * * *. These employment developments were, of course, influenced by many factors in the whole economic situation. They are much more marked, however, than would be expected in the exceptionally favorable economic circumstances of the time. (Report to the Congress in accordance with sec. 4(d) of the FLSA, p. 3.)

The Department of Labor report add-

ed a note of caution which is particularly appropriate to read at this time:

It may be expected that the economic climate in which the higher minimum becomes effective will be an important determinant of the extent of employment effects. The increase in the minimum wage to \$1.00 an hour took place at a time of expanding economic activity and this facilitated adjustment to the minimum wage increase. Had the minimum wage increase become effective during a period of recession its adverse effects on employment might have been much greater.

When we consider the impact of the \$1 minimum under relatively good economic circumstances, there is reason to expect that a higher minimum under less favorable circumstances will result in more layoffs because employers will strive harder to hold down their wage costs and prices.

I will be the first to concede that the adverse effects which took place in 1956 after the minimum wage boost were very limited in nature and were greatly outweighed by the benefits of the change, but I think we should be careful not to go to any extremes, particularly with respect to the retail and service trades.

Those Members of Congress who have not been involved in committee work on the minimum wage bill may find it helpful to examine figures which I have gathered concerning the economics of the retail trade. Retailers generally make a profit of about 2½ percent of sales and a profit after taxes which amounts to about 1.2 percent of sales. Records on the 12 leading food chain corporations indicate that none has a profit on sales percentage higher than 2.4 percent, and 10 of the 12 have a profit percentage running under 2 percent.

Profit figures for the service trade are somewhat higher but are not immense by any standards. The averages for the service trade show a profit before taxes of roughly 4.4 percent, and a profit after taxes of 1.76 percent.

Even with small profit margins such as these, a large chain can adjust to modest wage increases without too much difficulty, but the small chains which show a net profit of \$15,000, \$20,000, or \$30,000 will in some cases have real problems.

Secretary Mitchell stated last year that thousands of small businesses which will be brought under the act for the first time would be required to adjust to increases in wage costs of 50 percent or more. Let me cite some examples of the type of situation he is talking about.

Forty-four percent of the employees working in department stores now make under \$1 per hour; 60 percent of the employees in general merchandise stores earn under \$1 an hour; and 67 percent of the workers in drugstores earn under \$1 an hour. It is obvious that these employees need additional wages but it is equally obvious that when we raise them to the \$1.25 level there will be some employers who will be unable to absorb the additional payroll costs and who will resort to automated devices to adjust to the new law. Such action will, of course, cause some economic dislocation.

In 1955, when the minimum wage was increased from 75 cents to \$1 with no extension of coverage, 2.1 million workers, or 8.4 percent of all the then-cov-

ered workers, were paid less than \$1 and received wage increases.

The Department of Labor in reports to Congress indicated that it took more than 3 years to make a reasonably complete adjustment to the increase in the minimum wage from 75 cents to \$1. Even after 3 years, the extent of concentration of workers at the \$1 level was much greater than it had been when that rate was enacted, although 8.4 percent of the covered workers had been affected.

A rate of \$1.25 would require raising the wages of a larger proportion of factory workers than did the 1956 increase to \$1, but the real impact of the bill we are now considering will be felt not in the factories but in the retail and service establishments. The bill would bring under the Fair Labor Standards Act about 4.1 million employees, most of whom work in the retail and service trades. Well over 36 percent of these workers are currently making less than \$1.25 an hour.

We cannot gainsay the fact that this will cause a real impact. Half of the retail and service employees who will get a raise by reason of the committee bill make less than \$1 an hour. Their wages will be increased, at the very least, 25 percent.

The impact will be particularly acute in the laundry and drycleaning industry because 91,000 of the 140,000 employees covered by the bill make less than \$1.25 an hour at the present time.

During the years that I have been in Congress, I have supported all reasonable proposals to improve minimum wage legislation. I have done so because I think it is the very least we can do to help the least advantaged among us. My action has been based primarily on the humanitarian interest involved, but to some extent on my belief that substandard wage levels are a burden not merely on those directly affected but on the general community as well. Studies show that when wage levels are unnecessarily low local communities have to absorb a heavy load in terms of relief, health, and delinquency costs.

It is undoubtedly true that the purchasing power of middle and higher income groups has been on the incline during the past few decades, but we still have a great many people in the lower income levels who must spend absolutely every penny of their wage dollars for essentials. If the big simply get bigger and the rich get richer, while the less privileged are denied a share of the benefits of rising productivity, we do not have a society that is moving on the right foot in the right direction.

I supported minimum wage legislation last year, and I shall do so again this year. It is with considerable regret that I recall the accuracy of a prediction I made last year during the course of Senate debate. I indicated that if those supporting wage and hour changes took an "all or nothing" attitude, the workers would get just that—"nothing." I offered a substitute for the committee bill last year in an attempt to bring the differing forces together. Again, in conference I offered five other compromise measures in the hope that there would be

a legislative give-and-take resulting in progress for the worker. I was disillusioned and dismayed about the fact that no progress was made. I hope that this year we shall reason together and send a bill to the White House which will raise the minimum, extend fair labor standards coverage and have no real adverse effect on workers or employers.

Mr. President, I know there are pros and cons with respect to this issue. Some of the arguments which are made against increasing the minimum wage at this time are not without validity. However, I feel that the pros outweigh the cons, and I hope very much that after the Senate has completed action on the bill we can go to conference and reach a compromise which will be good for the workers and good for the employers.

ROCKEFELLER PUBLIC SERVICE AWARDS

Mr. KUCHEL. Mr. President, on Tuesday night of this week, at the Shoreham Hotel, the 1961 public service awards honoring distinguished service to the United States and the people of our country were presented by Robert F. Goheen, the president of Princeton University. The recipients included Robert M. Ball, Deputy Director, Bureau of Old-Age and Survivors Insurance, Department of Health, Education, and Welfare; Richard E. McArdle, Chief of the Forest Service, Department of Agriculture; Conrad L. Wirth, Director of the National Park Service, Department of the Interior; Charles E. Bohlen, Special Assistant to the Secretary, Department of State; Leonard Niederlehner, Deputy General Counsel, Department of Defense; and Sterling B. Hendricks, Chief Scientist, Mineral Nutrition for Pioneering Research, Department of Agriculture.

On that occasion Mr. John D. Rockefeller 3d, founder of the Rockefeller awards, and a trustee of Princeton University, delivered an excellent address about the nature of democracy and the Government in a free society.

I ask unanimous consent that the text of Mr. Rockefeller's comments on that occasion be printed at this point in the RECORD, as a part of my remarks.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ROCKEFELLER PUBLIC SERVICE AWARDS

I welcome this chance to state briefly what is for me the essential meaning of the awards for whose presentation we are meeting here today.

Such an occasion is more than merely ceremonial. It reflects the very nature of democracy—the true relationship between people and government in a free society. This relationship, in essence, takes the figurative form of a dialog—so distinct from the monologue that is a totalitarian system, in which the state talks, the people listen.

This democratic dialog—the free and candid and continuing conversation between government and people—places demands upon both. It demands that government, in a free society, be both responsible and responsive. This Government must address itself, in the most serious sense, to the people—at one and the same time sens-

ing and serving the needs of the people, while accounting to the people for its own actions. But the people, in this democratic dialog, also assume responsibilities. The people—the public at large—must be attentive and respectful, both critical and appreciative. For a people indifferent to its own government soon gets the kind of government it deserves, namely—a government essentially indifferent to the people.

In this continuing dialog, our society provides ample forum and occasion for the people to be critical, and this is proper and necessary to freedom itself. But how does a people show itself appreciative? Only a few years ago, the national scene seemed troubled, almost turbulent, with harsh assaults upon public servants. For a free people, this seemed a dangerous and self-defeating exercise—this stirring of contempt and hostility for the highest servants of the people themselves. How could the ever-growing responsibilities of government be met by public servants held in ever lower esteem by the public?

In great measure, these awards were created to face these questions—to show that the people could speak their praise in voice as clear and firm as any cries of critics—to let the servants of the public, in government office, know that the people care. In the continuing dialog between people and government, this means a number of things. It means: giving to an individual public servant the kind of praise and honor that, going even beyond his person, extends to public service as such. It means: calling upon the people to be more fully informed about public service, and so to attract to this service a growing number of the creative and dedicated among our youth. And it means, most simply and basically: a profound thank you to those who have shown some of the qualities of greatness in public service.

This suggests a question that strikes close to the heart of government in our free society. What are these qualities of greatness? What makes for greatness in a public servant?

There could be many ways to phrase the answer to this question, and I wish only to state briefly my own.

I believe the essential qualities we seek—and acclaim—are threefold. The first is courage—the mark of a man who, quite simply, is fearless in measuring and meeting the challenge of his office. He has integrity of intellect and spirit. His sense of security rests, not upon the coveted approbation of others, but upon his own awareness of doing his best—for its own sake. His sense of what is right is more sharp and keen than his sense of what is expedient. His counsel is candid: it consists of what he believes, not what he believes someone wishes to hear. He cares more for the advancement of an idea—or principle—than the advancement of himself.

Beside this faculty of courage stands a second basic quality—sensitivity. This tempers and mellows the kind of raw courage that could, by itself, be insular or arrogant. It denotes a capacity to listen as well as to talk. It signifies a readiness to learn as well as to instruct. It shuns sheer vanity of opinion. It gives respect to the opinion of others as open and honest as the respect one wishes for one's own beliefs or decisions. It means, in short, humility. And this is a virtue singularly appropriate to a democracy, in which no one man—and no one way of doing things—is presumed to be utterly, exclusively right.

Third and finally, there is—vision. This vision demands—and combines—the intelligence to discern the far horizons in one's life and work, and the resolve to strive toward them. Such discernment and such resolve must rest upon a clear awareness of past, present, and future. For the past, a

sense of history is wanted—to know the source and meaning of the basic values of national life. For the present, a sense of perspective is wanted—to detect every challenge to these values, as well as their relevance to the issues and problems of the day. And for the future, a sense of mission is needed—a realistic dedication, so that the work of each day helps to assure the preservation of these values for generations to come. Only by so full a vision as this—and by so firm a dedication—is the heritage of a whole people guarded and enriched.

Courage, sensitivity, vision: these, I believe, are the qualities that make for greatness in men who serve the people.

With much personal satisfaction, I join today in the tribute being paid to those here who have shown these qualities in such generous measure.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. McNAMARA. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. HOLLAND in the chair). Without objection, it is so ordered.

Mr. SMITH of Massachusetts. Mr. President, the bill which we are debating today is the bill to which I have given my major concern since becoming a Member of the Senate. As a member of the Labor Subcommittee I sat in on all the hearings on the bill. The consideration of the minimum wage legislation was my first experience in the process by which bills become law. I was extremely impressed by the great care taken by the committee to make sure that every point of view was amply heard.

I was especially impressed by the leadership of the senior Senator from Michigan, the chairman of the subcommittee, who conducted our deliberations with great patience and fairness.

The bill which is before the Senate is a mild bill. The minimum wage which it calls for is still below what is necessary to adequately support a family in these modern times. Nevertheless, the extension of coverage in this bill is essential to insuring the prosperity of this country.

In considering this legislation we have two obligations. The first one is to the people who are now receiving wages below a living standard. This is our prime obligation, in my opinion. Our second obligation is to help them in a way that is least disruptive to the current operations of business.

This bill accomplishes this purpose. For those industries newly covered there is a period of adjustment of 4 years before the full minimum wage will go into effect. In view of past experience, which shows that adjustment to a new minimum took place within a year or two, I believe this period is sufficient to make sure that no unemployment will be caused by the bill.

For the retail trade, which is the major industry involved in the new coverage, many exemptions have been made by the committee to take care of the special circumstances in the industry.

Students can be employed at wages below the minimum if they are in jobs not ordinarily given to full-time employees.

Employees who receive over half their pay in commissions do not have to be paid extra for overtime if their pay, including the commissions, equals at least 1½ times the minimum wage.

Assistant managers in retail stores are exempt if no more than 40 percent of their work is performed in non-executive and nonadministrative work. Employees involved in the preparation of serving of food in retail stores are exempt.

Through many days of hearings and deliberations our committee has smoothed out the main problems involved in applying this bill. What we have now is a workable formula which will meet a significant increase in living standards for many millions of our people without causing unemployment or dislocation.

This is a very important bill to the administration. The Democratic Party solemnly promised in its platform to enact a bill fixing \$1.25 as the minimum wage, and to extend coverage. Our President repeated this promise throughout the country last fall. Those of us who want to see this administration successful must realize the importance of passage of the committee bill. When we go into conference with the House, a bill satisfactory to the President can be reported out if we have a strong Senate bill to match the House bill, which does not cover a substantial number of employees who need the act's protection.

Mr. PELL. Mr. President, I have followed very closely and with great interest the hearings before the Subcommittee on Labor, of which I am privileged to be a member, concerning amendments to the Fair Labor Standards Act of 1938. I also am looking forward very much to hearing the debate on the proposed legislation.

There are various points to consider. First, there is the constitutional point. Those of us who are laymen and not lawyers have some problems in this regard. To me, at least, the Constitution of the United States clearly places within the jurisdiction of the Congress the duty to regulate interstate commerce. The Supreme Court has repeatedly held that the duty to regulate commerce among the States imposed upon the Congress the right and duty to pass laws incidental to the working conditions of persons employed in activities engaged in or affecting such commerce.

To my mind, in this, the 20th century,

with the increasing mobility of goods and people because of airplanes and trains, volume in itself is a significant indication of interstate—which means basically national—commerce as opposed to intrastate, or local, commerce.

The movement of goods with greater speed than when the Constitution was written in the 18th century in itself provides evidence of the fact that new definitions are needed.

This, too, is why I hope the bill will be passed in its present form and not amended by substituting the doing of business in two or more States concept, and I intend to vote accordingly.

I believe, too, that it is essential to the welfare of our Nation to eliminate labor conditions detrimental to the maintenance of minimal standards necessary to the well-being of our workers. The present minimum wage is simply not adequate to maintain an individual, let alone a family, in dignity in the United States today. According to statistics from the Department of Labor it presently costs a family of four over \$6,000 a year to live modestly but adequately in a metropolitan center in the northeast area of our country. A family of four depending upon income from a wage earner at the present minimum rate earns less than one-third this amount. In fact, the annual income of a family completely dependent on a minimum

wage would be less than the average State grant to the same family depending upon public assistance payments for its livelihood.

Since 1956, there has been a substantial increase in wages generally.

This increase has resulted from the advanced methods of productivity, increasing the average real product per man by about 13 percent in the same period that the cost of living has gone up 11 percent. At the same time, some workers who are making the same wages they made 5 years ago have not participated in this upward movement of wages and have consequently been unable to keep up with the increased cost of living.

It has been stated that minimum wage legislation produces inflation. The figures, I believe, prove this contention to be a fallacious one. The figures to which I refer are those of the Department of Labor, and are contained on page 741 of the hearings before the Subcommittee on Labor of the Committee on Labor and Public Welfare of the 87th Congress, 1st session, on S. 256, S. 879, and S. 895. I ask unanimous consent that this table be printed in the RECORD at this time.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Employment in manufacturing, total unemployment, and Consumer Price Index, for selected years

FAIR LABOR STANDARDS ACT

Minimum wage and effective date	Year	Employment in manufacturing	Total unemployment all industries	Consumer Price Index
25 cents October 1938.....	1938	9,253,000	10,390,000	60.3
30 cents October 1939.....	1939	10,078,000	9,480,000	59.4
	1940	10,780,000	8,120,000	59.9
	1949	14,178,000	3,395,000	101.8
75 cents January 1950.....	1950	14,967,000	3,142,000	102.8
	1955	16,563,000	2,654,000	114.5
\$1 March 1956.....	1956	16,903,000	2,551,000	116.2

Mr. PELL. Mr. President, the minimum wage was first established at 25 cents per hour in October 1938. The Consumer Price Index for the following year actually dropped from 60.3 to 59.4. Although the minimum wage was increased the following year to 30 cents per hour, the increase in the Consumer Price Index was one-half point as compared to an average annual increase of 3.16 percent in the two decades following 1938.

The next minimum wage increase was in January, 1950, when the minimum wage was raised to 75 cents an hour. Yet by the end of 1950 the Consumer Price Index had gone up only one point, as opposed to the three point average annual increase in the 12 years since 1938.

Then on March 1, 1956, the minimum wage was increased to \$1 per hour, and yet by the end of 1956 the Consumer Price Index had gone up only 1.7 points, as compared to an average increase of three points.

Since the figures show that in the years following enactment of minimum wage legislation there has been less than an average increase in the cost of living, I hope the argument that minimum

wage legislation produces inflation will be put to rest as a fallacious one.

Finally, since this proposed increase would be a gradual one, I believe that it would act as a spur to increase productivity, and would tend to decrease wage scale differentials which exist among certain areas of our country.

I hope very much the proposed legislation will pass.

Mr. HUMPHREY. Mr. President, the aides of many Senators are present, and they can notify Senators. I wish to inquire as to whether my colleagues desire to deliver more speeches on the pending business.

The majority leader has indicated that we are going to remain in session tonight. The timing of the measure was discussed last week. It was reported to the Senate yesterday, so that the rule as to the amount of time that would be required for it to lie over would be complied with. I hope that Senators are ready to speak on the many controversial areas of the bill.

Mr. McNAMARA. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. McNAMARA. I understand that several amendments are at the desk.

Perhaps some are printed, and others are not. I wonder if it is the disposition of the majority leader to get some action.

We have spent the entire day with quorum calls and incidental subjects. Obviously there is a disposition to stall. I think we ought to get some action on the amendments which are at the desk. No Senator seems to be asking for action at this time. What is the position of the leadership?

Mr. HUMPHREY. Speaking not for myself, but for the majority leader and for Senators who are handling the bill for the majority of the committee, our hope is that Senators will cooperate with us to bring up some of the amendments. We recognize that there are some controversial amendments. All parts of the bill are subject to controversy and to different points of view. I heard that one Senator had 10 amendments and that another had 2 or 3. Then, of course, there is the important amendment of the Senator from Florida [Mr. HOLLAND] and the amendment of the Senator from Oklahoma [Mr. MONRONEY].

These amendments are very important. Plenty of time will be required for discussion. My point is that I think we look a little ridiculous, with a major piece of proposed legislation like this before us, and Senators who hold very strong views on the proposed legislation being unprepared to discuss it. There have been presentations by several Senators as to their views on the general bill. I am hopeful that we can have some discussion of the bill so that starting tomorrow we can vote.

Mr. McNAMARA. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. McNAMARA. I have no idea of cutting off debate, but we do not seem to be making any progress. Certainly we ought to have time to discuss the important amendments that Senators have to offer or have already submitted. I thought we were going to be in that phase of the discussion by this time.

We should do everything we can to expedite action. We who are supporting the pending bill are ready to vote now. We have been ready to vote for some time. There is no stalling on our part at all. I would like to see this measure moved along.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. HOLLAND. I am somewhat amused by this situation. The chickens are coming home to roost. A complex bill was reported yesterday, but the printed form of the bill was not available until today. A 111-page report was submitted, but was not printed or available until today. We have a situation in which Senators have amendments drafted and ready, as was the case with the Senator from Florida, insofar as their readiness to propose amendments to the bill as first introduced was concerned. Senators learned from the legislative drafting counsel that the amendments must be largely redrawn because of the new form of the bill. We have strained all day to get the amendments

redrawn. The principal amendment which I hope to offer was reported back as applying to eight different sections of the bill, because of the complicated way in which the bill was drawn this year. In order to make very sure that we understood it alike, the Senator from Florida was very glad to refer the amendment to his friend, the Senator from Michigan [Mr. McNAMARA], who in turn had his learned counsel check on it. They found that the eight separate amendments to the various sections of the bill should be read together. We are not offering the amendments separately, but they must be addressed to the separate sections. That result is what the Senator from Florida was trying to attain, and the Senator from Michigan [Mr. McNAMARA] agrees such would be the result if the amendment were agreed to. That amendment is now on the table ready to be printed, so that Senators can see it in all of its complexities tomorrow.

We are suffering from one of the results of the untimely, too hasty, and, I think, rather inconsiderate presentation of the measure.

An amendment was offered by the distinguished senior Senator from Georgia [Mr. RUSSELL] early today, before debate on the bill began. That amendment is to be printed, will lie on the table, and will also be available to Senators in printed form in the morning.

An amendment was offered for printing and to lie on the table, as I understood, by the distinguished Senator from Oklahoma [Mr. MONRONEY], who offered somewhat the same amendment last year, and came within two votes of having it agreed to. I understand that amendment is to be printed and will lie on the table in the morning.

An amendment, which I understand is in the nature of a substitute, was offered by the distinguished Senator from Illinois [Mr. DIRKSEN]. I may be misinformed. I trust that that amendment will be ready for examination and presentation in the morning.

I understand that the distinguished Senator from Arizona [Mr. GOLDWATER] has a number of amendments he wishes to offer. I believe he has sent some to the desk for printing. The fact that they are not printed and available is due to the fact that no Senator knew what the form of the bill would be, other than the distinguished Senators who reported the bill out of committee, until it was available in printed form earlier today before the Senate convened. So I believe we have exercised due diligence.

I am perfectly prepared to offer an amendment or to support amendments of other Senators tomorrow or to vote against them. But I am not prepared to take up as complex a subject as is embraced in my own particular amendment without its being available in printed form. I would be very foolish to do so.

I am sure that the same position is taken by the Senator from Oklahoma [Mr. MONRONEY], by the Senator from Georgia [Mr. RUSSELL], by the Senator from Illinois [Mr. DIRKSEN], and by the Senator from Arizona [Mr. GOLDWATER]. To blame Senators who have very deep

feelings as to the bill or as to certain parts of it for a situation which is not at all their fault is, it seems to me, not the thing to do.

So let us in good humor admit that haste in the presentation of the bill was responsible for the fact that no printed amendments are on the desk, and let us be ready to go into this subject tomorrow. I understand the Senate has given unanimous consent to convene at 10 o'clock tomorrow morning. The amendments of which I have spoken, and perhaps others about which I am not informed will then be ready. We ought then to be able to make progress. Certainly, so far as the Senator from Florida is concerned, he is ready to speak on his amendment and some of the amendments of other Senators.

Mr. HUMPHREY. Is the Senator from Florida ready to speak tonight?

Mr. HOLLAND. No, because I want my amendment to be on the desks of Senators so that they can follow it. I am ready to speak, but it would be to no purpose, because I would have to go through the same points tomorrow. I have not even had an opportunity, I say very candidly, to check the eight different sectional amendments against the sections to which they relate. I have operated as rapidly as I could, and the Senator from Michigan [Mr. McNAMARA] has cooperated. He has had the advantage of two counsel to advise with him. I am sure we have a common understanding of the amendment. We are ready to go ahead with it, but not now, when it is not printed and not available.

I think we should recognize the fact that the Senator from Minnesota is right in telling us that we are sort of making ourselves ridiculous. Rather than relying upon long quorum calls and disturbing the evenings of the Senators who have other plans, we should adjourn or recess, whichever is the pleasure of the Senator from Minnesota [Mr. HUMPHREY] or the Senator from Montana [Mr. MANSFIELD], at an early hour, and return at 10 o'clock tomorrow morning ready to proceed. Tomorrow morning is about the first time we can be ready to discuss the amendments.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HUMPHREY. Just one moment.

Mr. HOLLAND. What I have said has been said in all kindness.

Mr. HUMPHREY. I understand.

Mr. HOLLAND. I am not complaining. I made my complaint this morning, and I stick by it. I do not think Senators were considerably treated. I am not irritated. We might as well recognize the situation in which Senators are completely within their rights in asking that they not be required to talk upon very complex and difficult amendments until copies of those amendments are printed and on the desk of each Senator.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from Arizona.

Mr. GOLDWATER. I believe a further point should be made. It has been overlooked in the discussion. I am sure the Senator from Michigan [Mr. McNAMARA] will corroborate what I am

about to say. The majority leader asked us Republicans to expedite the reporting of the bill by the committee. Acting on the majority leader's wishes, I agreed that I would not submit my amendments in committee, but that I would withhold them for presentation and action on the floor. I believe that action helped to bring the bill out of committee. I could have insisted on my rights and on committee meetings being held for some time. My action made it possible to bring the bill to the floor of the Senate this week.

The amendments I had in mind I was not able to write or even begin to write until last night, because the final language of the bill was not available until late yesterday afternoon. The amendments are now in the process of being printed, I believe. I can be ready tomorrow morning to present my amendments. A number of the amendments are simple, but there are some complex amendments, and I would hesitate to discuss them on the floor of the Senate without Senators having the amendments in print before them. I am happy to note that the acting majority leader has recognized the fact that the Republicans have cooperated to the utmost to expedite the bill being reported to the Senate. We have no intention of holding it up. We would like to get on with the consideration of the bill and the various amendments. However, we do not want to proceed blindly without having all the facts before us.

Mr. HUMPHREY. I express my thanks to our two genial, valued, and dedicated Members, the Senator from Florida [Mr. HOLLAND] and the Senator from Arizona [Mr. GOLDWATER] for the very plausible arguments they have made in support of their points of view.

Let me say first to the Senator from Arizona that he was cooperative in committee. The majority leader has indicated the situation exactly as the Senator from Arizona has stated it. His cooperation in committee made it possible to bring the bill to the Senate floor when it was brought here. It was also announced, however, that after the bill came to the floor of the Senate, we would proceed as expeditiously as possible, in the hope of being able to pass the bill on Thursday, Friday, or Saturday.

Mr. GOLDWATER. Or Monday.

Mr. HUMPHREY. It begins to appear now as if we may cross the threshold of another week. I am not unmindful of the ability of Senators to extend debate and occasionally to elaborate on the parliamentary situation before the Senate.

Mr. MONRONEY. Mr. President, will the Senator yield?

Mr. HUMPHREY. First I wish to say to the Senator from Florida that I fully appreciate his concern over the amendment he intends to offer. He was kind enough to permit me to take a quick look at the amendment—at least, a member of my staff has been able to do so. It is my view that the amendment, while it contain many references, and while it is highly controversial, is not quite so complex as it has been portrayed. What it does is to eliminate the new coverage.

Mr. HOLLAND. Oh, no. Will the Senator yield?

Mr. HUMPHREY. That is the essential purpose of the amendment.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. HOLLAND. My understanding, at least from counsel of the learned Senator from Michigan, is that at least four facets of the new coverage are left in the bill. These are the seafood employees, the municipal railway employees—what are the others?

Mr. HUMPHREY. With reference to the retailers, the exemptions are restored as they were in the previous bill.

Mr. HOLLAND. I said that very frankly in my discussion.

Mr. HUMPHREY. Yes. Of course this question can be argued for many hours, but what the acting majority leader is saying is that surely the Senator from Florida, brilliant and profound man that he is, knows what his amendment would do. I suggest that it would be well to have the Senator explain his amendment, in a preliminary way, tonight, to expedite the debate on it tomorrow. That would be the purpose, also, of having other amendments explained, such as the amendment to be offered by the Senator from Oklahoma [Mr. MONRONEY]. The amendments could be explained this evening, without the necessity of having the amendments actually before us. The amendment offered by the Senator from Oklahoma is similar to the amendment we considered a year ago. The bill before us is similar to the bill we considered a year ago. We are not exploring new ground. We are not in outer space. We have been here before. We have considered many of these amendments before. Some of them have been defeated before.

I gather that one or two of them were close to being adopted before. Although we cannot force a vote on any amendment—and I would not want to do so, because I believe in the right of debate, and I would caution against any tabling motion or similar parliamentary tactic—I must point out that we have told a great many Senators to cancel dinner and other engagements, and they have made their plans accordingly. The majority leader has announced that the Senate would be in session until about 9 o'clock. It seems to me that it would not be a bad idea, so long as we are going to be here, to do something, rather than indulge in quorum calls.

Mr. DIRKSEN, Mr. MONRONEY, and Mr. HOLLAND addressed the Chair.

Mr. HUMPHREY. I yield first to the minority leader.

Mr. DIRKSEN. Mr. President, I should like to make a suggestion to the acting majority leader. First, the distinguished Senator from Arizona has submitted his amendments this afternoon. They are 10 in number. They would not be available under any circumstances until tomorrow. I had indicated both to the committee and to the Senate that in due course I would offer a substitute which would be substantially the text of the House bill, with

some modification. I would be prepared, after the morning hour tomorrow, after the Senate has met at 10 o'clock in the morning, to offer the substitute as the first order of business, to let the substitute be the pending business, so that it can be discussed. We could move on and ultimately vote on it. So there would be business before the Senate.

Mr. HUMPHREY. The Senator's suggestion is a very constructive and useful one. The minority leader has been exceeding cooperative. All Senators stand on an equal footing. When Members of the Senate do not want to proceed, I know, having been in the Senate long enough, that the situation becomes a little sticky—not sticky, Mr. President; the Senate stops. I would be more than happy to give consideration to the suggestion. Of course, I know that the minority leader would not expect the acting majority leader to proceed without consultation with the majority leader. The majority leader is the leader, and I respect his prerogatives. In a moment I will suggest the absence of a quorum. Then I will have an opportunity to discuss the situation with the majority leader.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. HOLLAND. I could not make my statement complete a moment ago, because I could not recall the four groups of the newly covered who are not disturbed by my amendment. I have been handed a list by the Senator from Michigan [Mr. McNAMARA], and I am sure it is correct. The four groups that would not be disturbed, and which would be newly covered if the bill should be passed, would be transit workers—and I understand that means streetcar and local bus service employees—

Mr. McNAMARA. That is correct.

Mr. HOLLAND. Also seafood workers; switchboard operators in certain types of telephone exchanges; and merchant seamen.

So it was hardly correct to say that the Senator from Florida in his amendment, which attempts to do exactly what was done in 1949, and which would reenact what is in the law now with reference to the exemption of retail stores and service establishments, was trying to cut out all new employees who were blanketed into the bill as reported to the Senate.

Mr. HUMPHREY. The Senator from Florida has made an appropriate correction in the remarks of the Senator from Minnesota. What I indicated at the conclusion of my remarks was that the amendment of the Senator from Florida would restore the old exemptions.

Mr. HOLLAND. The Senator is correct.

Mr. HUMPHREY. That is correct. What it really does is to knock out 3,900,000 of the 4,100,000 persons who are covered in the McNamara bill. That is not exactly taking out all of the persons covered by the bill. The fact is that the old exemptions are restored. This subject could be discussed, and probably will be discussed a little later.

First, however, I wish to yield to the Senator from Oklahoma.

Mr. MONRONEY. Mr. President, I thank the Senator from Minnesota, the acting majority leader.

I think the misunderstanding of the very amendment just discussed is proof positive that it is difficult for Senators pressing amendments to discuss them without creating a gross misunderstanding on the part of other Senators, even those who are not so well informed as the majority leader as to their content. I have been the victim of this kind of procedure many times on the floor of the Senate, as I feel certain the majority leader has. But that is one of the difficulties which arise when we hurry up beyond the capacity of our machinery to keep up with ourselves.

I have been inquiring almost hourly since the bill was reported to the Senate yesterday, so that we could have our amendment in order, with the proper page numbers and proper section numbers, and so that we would not be ridiculed on the floor for having amended the wrong section or the wrong page.

We are, of course, interested in the results of the very important hearings which have been held. They took place on February 28 and March 1, 2, 3, and 6, 1961. The volume of the hearings which I hold in my hand contains 752 numbered pages and is filled with many tables and charts which are of great interest to us who are concerned with the bill.

Also, of not the least interest is a 111-page report which, together with the 752-page hearings, became available for the information of the Senate at 11 o'clock this morning.

I believe all Senators wish to cooperate with the leadership. We believe in transacting the business of the Senate expeditiously. But why would it not be better procedure, in the light of the historic mode of operations, to have the case for the bill fully laid before the Senate? Is it the duty of Senators who propose amendments and changes to begin or open the debate? I have been on the floor practically all day. There have been perhaps four speakers who have touched on the bill. In my opinion, the bill does the greatest violence to the traditional concept of interstate commerce that I have seen in my 22 years of membership in Congress.

Since the bill breaks brandnew ground as it affects the very important interstate commerce clause, with the threat of the long arm of the Federal Government reaching into every small business in the Nation by merely changing certain preferred exemptions which have been graciously retained, not as a gratuity, perhaps, but to help obtain a certain status of votes which would help to expedite the passage of the bill, I think it would be highly proper for us to be told what is good in the bill.

I notice that some of the most articulate Members of the Senate are included among the 14 distinguished members of the committee. If the bill is as important as I believe it is; if the issues go to the deep constitutional reinterpretation and redefinition; then is it not the duty

of the proponents of the measure to speak affirmatively and lay the predicate for the case which they are pleading? Do they expect the proponents of amendments to precede Senators who advocate the passage of the bill in its present form?

Mr. HUMPHREY. Mr. President, will the Senator from Oklahoma yield?

Mr. MONRONEY. I yield.

Mr. HUMPHREY. I hope the Senator will again permit me to set the record straight, as was done some moments ago. The proponent of the bill is the distinguished Senator from Michigan [Mr. McNAMARA].

Mr. MONRONEY. There are 13 other members of the committee.

Mr. HUMPHREY. The Senator from Michigan reported the bill for the committee. I heard his speech. It convinced me. I was ready to vote right after the Senator from Michigan concluded his speech. It was an eloquent address, one of the most persuasive orations, one of the greatest documentations of fact, that I have ever heard in my 12 years as a Member of the Senate. The speech by the Senator from Michigan convinced me unqualifiedly.

I say to the Senator from Michigan that his powers of oratory are not exceeded even by those of the beloved, well-known, historic Daniel Webster. The presentation by the Senator from Michigan was marvelous.

Other Senators, also, were persuaded by that speech. In fact, the majority leader was persuaded by it. He appeared to be persuaded when the Senator from Michigan was delivering his remarkable address. In all seriousness, I compliment the Senator from Michigan. I do not think it is correct to contend that we have not had a presentation.

Mr. MONRONEY. Mr. President, will the Senator from Minnesota further yield?

Mr. HUMPHREY. I yield.

Mr. MONRONEY. I am not complaining about the quality of the presentation; I am complaining about the quantity. The bill is very comprehensive. With due allowance for the normal interruptions in a Senator's day, I have tried to follow carefully the debate on the floor. For some reason there seems to be an ominous silence; a hope that if we chug, chug, chug the bill fast enough, it will be possible to pass it and not have to explain all that it contains.

There has been a strange silence on the part of some of the foremost speakers in the Senate, Senators who have never been inarticulate before, Senators who have a reputation not only for quality, but also for quantity of discussion.

Mr. HUMPHREY. I cannot imagine to whom the Senator from Oklahoma is referring; but for any Senator to have spoken at length in support of the committee bill after the Senator from Michigan had spoken would have been like Secretary Stanton following Lincoln at the conclusion of the Gettysburg Address. The Senator from Michigan gave us facts.

I have never heard of Senators pleading with the proponents of bills to tell

the Senate more, particularly when they wanted to defeat a bill. We who favor the bill are content.

I have been trying to reform. I have been doing my best to shorten my speeches. Now the Senator from Oklahoma has convinced me that my effort is to no avail. I am really sorry.

Mr. HOLLAND. Mr. President, will the Senator from Oklahoma yield?

Mr. MONRONEY. The Senator from Minnesota has the floor.

Mr. HUMPHREY. I am glad to yield to either Senator.

Mr. HOLLAND. It occurs to me that we might examine for a moment the thought that the very definition of interstate commerce in the bill—and it is wholly interstate commerce upon which the bill is based—differs completely in wording, and I think in meaning and in substance, from the definition contained in the bill last year. Yet we are told that we are just chewing some cud, so to speak. There has not been any adequate discussion of the difference in definition and difference in wording so as to show why it is desirable now, and why it is safe to adopt it now, when last year the same advocates of the bill, in the same field, insisted that there was another definition.

I remember that seated next to the distinguished Senator from Oklahoma was a young Senator who is now the President of the United States. He insisted that the wording in the bill last year affecting commerce was the only proper wording for use in his bill. Now, however, we have a completely different formula. Up to this time it has been unexplained, and the not so erudite Senator from Florida and other Senators who are equally desirous of information wish to hear it discussed.

However, begging for persuasion, eager to have information, and suspecting that we are to be informed a little later, we have as yet had withheld from us information which is basic to the legality, the coverage, and the practicality of the bill. I hope we may have some discussion of that salient point in the bill.

Mr. HUMPHREY. Mr. President, some time ago I served notice to Senators that there would be debate on the bill, and now we have been able to get it. I admit that I myself had to start some fire to get it. Nevertheless, we are beginning to learn that some Senators were not satisfied with the explanation made by the Senator from Michigan [Mr. McNAMARA]. When he was speaking and holding the floor, the only real comments about his address were compliments. He was available to be worked over, educated, enlightened, or at least to be argued with.

What we are saying now, and what the Senator from Minnesota said, is simply that we have a very important measure before us. It is controversial. The Holland amendment is highly controversial. The amendment of the Senator from Oklahoma [Mr. MONRONEY] is highly controversial. It was controversial a year ago. It was defeated a year ago. I hope it will be defeated again. My point is that since the amendments are so important, it

is a good idea to begin to discuss them. It is a good idea, for example, to contest the definition of interstate commerce as proposed in the committee bill, sponsored by the Senator from Michigan. Now we are learning that there are issues to be discussed. That is why this day was set aside. The day was not simply to be used for the purpose of having quorum calls. The majority leader wished to have Senators discuss the bill today.

Mr. DIRKSEN. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. DIRKSEN. I can report to the Senate that following the morning hour tomorrow I shall offer an amendment in the nature of a substitute. The amendment is ready and will be offered, and will then become the pending business and be subject to debate. So the Senate will have business before it.

In view of that assurance, there would be no particular point in seeking to discuss all the various facets of the pending bill. I am hopeful that some arrangement can be contrived, in view of the fact that the Senate will convene at 10 o'clock tomorrow morning, whereby Senators who have commitments tonight may keep them. A great many Senators have such commitments.

Mr. HOLLAND. Mr. President, will the Senator from Minnesota yield?

The PRESIDING OFFICER (Mr. SMITH of Massachusetts in the chair). Does the Senator from Minnesota yield to the Senator from Florida?

Mr. HUMPHREY. I yield.

Mr. HOLLAND. In explanation of the fact that some of us did not press unduly the distinguished Senator from Michigan for an explanation in regard to the definition of interstate commerce, let me say that I understood the distinguished Senator from Michigan to state—not being a lawyer—that that was not particularly a subject he wished to discuss.

Mr. McNAMARA. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. Mr. President, the Senator should beware of such false modesty.

Mr. McNAMARA. Mr. President, I made no such statement.

Mr. HOLLAND. Well, the Senator from Oregon made it for the Senator from Michigan, during the mutual admiration discussion they had between themselves; and I had heard that other able Senators, who are very, very capable constitutional lawyers, would be heard on this point. I had hoped there would come one such to whom we could address some inquiries on this point.

I am very fond of the Senator from Michigan, and I think he is a very sturdy proponent of anything he favors—as he is for this bill. But certainly I would not expect him to discuss in all of its niceties and all of its complications the deference between the definitions in this bill and those in the one we discussed last year in regard to the interpretations of the interstate commerce law and its meaning, or such differences between this bill and the current law; and I think we are not to be blamed too much for being spellbound by the oratory of the Senator from Michigan and

entirely willing to listen with bated breath, and yet hoping that a Senator who is a lawyer would have the floor very soon, so that we could catechize him in regard to these questions in regard to matters of very abstruse constitutional law which are involved in this measure.

I recall that last year, after constitutional experts had waded in and waded out, finally we had to call upon the distinguished former justice of the Supreme Court of North Carolina, the Senator from North Carolina [Mr. ERVIN], to give us the lowdown on the constitutional questions involved; and I remember that finally that presentation was made in a very clear and succinct way which we could understand.

So I hope some member of the committee will discuss the definition of interstate commerce that is proposed to be enacted into law through the medium of this bill—and which, as I understand, would, with a very few changes and exceptions, be made to cover every little drugstore, corner grocery store, automobile dealer, agricultural equipment dealer, every restaurant and hotel—by merely doing away with that omission—and every retail concern, service establishment, and laundry, from one end of the country to the other. I would not wish the presentation to cover each detail; but I understand that is the preference of the Senator from Michigan.

So I shall be glad to hear that discussion of the bill.

Mr. HUMPHREY. Mr. President, the argument of the Senator from Florida, when he speaks of the eloquence of the speech of the Senator from Michigan, is most complimentary and very disarming. But I hope the Senator from Michigan will not be completely disarmed. I want him to know that one of our other colleagues, who is a great constitutional lawyer, the Senator from Oregon, was present at that time; and I have never known the Senator from Oregon to run away from any fight, whether large or small, good or bad. Certainly I would have enjoyed the opportunity this afternoon to listen to a good forensic struggle and an intellectual debate. That is what we tried to have; that was the entire purpose.

But, Mr. President, consider the present situation: A short time ago we were having difficulty in obtaining speakers; but now we cannot get Senators to stop talking. [Laughter.]

Mr. McNAMARA. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. McNAMARA. I thank the Senator from Minnesota for yielding to me.

Let me say that in the remarks I made today I did point out that we expected various amendments to be brought up and discussed; and I said that later in the debate some of the members of the committee who are constitutional lawyers will discuss the details of the amendments. That point was definitely made.

In addition to the very competent constitutional lawyers who are members of the committee, the committee also has expert staff members, including very competent lawyers; and we are ready at any time to discuss these matters.

We have already made all the case we think it necessary to make; but we welcome an opportunity to engage in debate in regard to all of the bill or any part of it.

Mr. ERVIN. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. ERVIN. I should like to have some of the Senators now present advise me whether I should now abandon all hope of being able to attend the Jefferson-Jackson Day dinner at Raleigh, N.C., on Saturday night.

Mr. HUMPHREY. Mr. President, a good Democrat should never abandon hope; and certainly the New Frontier is very desirous of having all good Democrats attend the Jefferson-Jackson Day dinners.

Mr. ERVIN. I wonder just what hope the Senator can hold out in that connection.

Mr. HUMPHREY. Of course, in that connection, I shall be glad to give a friendly opinion; but if the Senator really wishes to obtain the hard facts about what will happen, I must refer him to the distinguished majority leader.

Mr. CLARK. Mr. President, will the Senator from Minnesota yield to me?

Mr. HUMPHREY. I yield.

Mr. CLARK. I should like to make a brief comment as a member of the committee who makes no pretense of being a great constitutional lawyer, although I did make a somewhat precarious living by practicing law for 25 years.

Let me say that no problem such as the one referred to just now is involved in this bill. In fact, I suspect that the Senator from Oregon knows that. The cases are clear, and the definition contained in the bill is succinct.

So I believe that Senators kid themselves if they think that we deal with grave constitutional questions when we deal with this minimum wage bill, which we have been over and over and over, again and again, until really there is nothing left to say about it.

I, for one,—although I think I might be able to make a living by practicing law, if I left the Senate—would not wish to debate the constitutional issue, because there is none to debate.

Mr. MONRONEY. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. MONRONEY. With all due regard for my distinguished friend, and although I must confess that I am not a lawyer, yet, having been a newspaperman, I think I can read English.

Mr. CLARK. That makes the Senator a good lawyer.

Mr. MONRONEY. And I think I can read the precedents and the history of this measure, under which, with the old concept being discarded, we shall be entering new fields.

Mr. CLARK. That is a question of policy, not a question of law.

Mr. MONRONEY. In view of his service on the committee, the Senator may say that we should take the bill on faith. But many of us lack the great faith the Senator has—his great faith that the bill does nothing except write a new formula for interstate commerce and put the dollar sign in the place of the geographical

limitations which historically have been the guiding line and the protection of intrastate business against Federal invasion. Such faith may be sufficient for my distinguished friend; but these are some of the things—as I pointed out earlier—about which we should like to know.

I have been waiting for a distinguished constitutional lawyer and labor expert who is one of the members of the committee—I refer to the Senator from New York [Mr. JAVITS]—to make his presentation in connection with those matters. He informed me that he had been requested to make an analysis of the bill. Is it for us to submit amendments, and then have his analysis presented in rebuttal? Or, as Members of this body, since the bill involves a great reversal of all these precedents, are we entitled to have the benefit of the facts, before we submit our amendments and challenge those facts?

I think all of us have been here long enough to know that a Senator who brings in a bill is prepared to discuss and defend it, not with only one or two members of the committee, but with as many Members of the Senate as possible, both those who oppose the bill and those who support it.

This bill is not holy writ. Only one or two Members participated in the writing of the amendments. It seems to me that we are entitled to have the benefit of the judgment of more Senators than that in regard to the bill and in regard to the reasons for the proposed violent overthrow of what heretofore has been a definite constitutional prohibition against extending the long arm of the Federal Government into every Main Street business, and to have nothing but a fluctuating and undulating dollar safeguard those businesses, which heretofore have been protected against Federal Government encroachment.

Mr. CLARK. Mr. President—

Mr. HUMPHREY. I yield to the Senator from Pennsylvania.

Mr. CLARK. I shall be brief again. The Senator from Oklahoma raises interesting questions of policy with respect to which Senators may disagree. All I am saying is that there is no—I repeat, “no”—serious constitutional question involved. There are many questions of policy, which a newspaperman probably knows a good deal more about than does a lawyer; but, let us not kid ourselves, there is not any constitutional question involved in this bill. The bill is clearly constitutional.

Mr. MONRONEY. That may be, but I think we are entitled, since the Senator has raised the question of policy, to one or two more speeches as to why we should overturn a policy of years and years standing.

Mr. HUMPHREY. Mr. President, I thank my colleagues for engaging in debate on the bill.

Now I yield to the Senator from Illinois [Mr. DIRKSEN] who is not going to ask a constitutional question.

Mr. DIRKSEN. Mr. President, my knowledge on constitutional matters is a bit hazy at this time of day. I would rather suggest to the majority leader, first, that my substitute is prepared and

will be offered tomorrow immediately after the morning hour. Second, I have a list of 16 Senators on our side who want to be heard. I have notified the office of every one of them to be ready for discussion tomorrow. I know of nothing else I can do. I humbly hope, under the circumstances, that we can contrive an understanding whereby we can adjourn or recess shortly, and let everybody pursue commitments he has made, come back fresh at 10 o'clock tomorrow morning, and then pursue the issue in truly traditional senatorial style.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. MANSFIELD. The minority leader is, as always, more than fair. In view of the fact that his amendment will be made the pending business at the conclusion of the morning hour tomorrow, and that Members of the Senate will have an opportunity to study it when they receive the RECORD tomorrow morning, the request made by the distinguished minority leader is a reasonable one. I am prepared, at the conclusion of whatever remarks are yet to be made, to move to adjourn until 10 o'clock tomorrow morning.

Mr. DIRKSEN. Mr. President, in pursuance of that, I now offer the amendment in the nature of a substitute, and ask that it be printed at length in the RECORD at this point.

The PRESIDING OFFICER. The amendment in the nature of a substitute will be received, printed, and, without objection, will be printed in the RECORD.

The amendment is as follows:

H.R. 3935

An Act to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Fair Labor Standards Amendments of 1961”.

DEFINITIONS

SEC. 2. (a) Paragraph (f) of section 3 of the Fair Labor Standards Act of 1938 is amended by inserting after “Agricultural Marketing Act, as amended,” the following: “the processing of shade-grown tobacco for use as cigar wrapper tobacco by agricultural employees employed in the growing and harvesting of such tobacco, which processing shall include, but shall not be limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling, prior to the stemming process,” and in the case of fruits and vegetables includes (1) transportation and preparation for transportation, whether or not performed by the farmer, of the commodity from the farm to a place of first processing or first marketing within the same State, (2) transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of the commodity.

(b) Paragraph (m) of section 3 of such Act, defining the term “wage”, is amended by inserting before the period at the end thereof a colon and the following: “Provided, That the cost of board, lodging, or other facilities shall not be included as a part of

the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide individual contract or collective bargaining agreement applicable to the particular employee”.

(c) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs:

“(p) ‘Secretary’ means the Secretary of Labor.

“(q) ‘Enterprise’ means the related activities performed (either through unified operation or common control) by any person or persons for a common retail business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That, within the meaning of this subsection, a local retail establishment which is under independent ownership and control shall not be deemed to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not limited to, an agreement (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such local establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

“(r) ‘Enterprise engaged in commerce or in the production of goods for commerce’ means any enterprise which has five or more retail establishments and which operates such establishments in two or more States.

“(s) ‘Retail establishment’ shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods is not for resale and is recognized as retail sales in the particular industry, but shall not include an establishment which is primarily a service establishment such as (but not limited to) hotels, motels, restaurants (including lunch counters, cafeterias, and drive-ins), caterers, hospitals, laundry or drycleaning establishment, motion-picture theaters, amusement or recreational establishments, parking lots, beauty or barber shops, and repair shops.”

INVESTIGATIONS OF EFFECTS OF FOREIGN COMPETITION ON EMPLOYMENT

SEC. 3. Section 4 of such Act is amended by adding at the end thereof the following new subsection:

“(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter and shall make a full and complete report of his findings and determinations to the President and to the Congress.”

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting, after the words “production of goods for commerce” wherever they appear, the following: “or employed by a retail establishment of an enterprise engaged in commerce or in the production of goods for commerce”.

MINIMUM WAGES

SEC. 5. (a) (1) Section 6(a) of such Act is amended by inserting, after the word “who” in the portion thereof preceding paragraph (1), the words “in any workweek”.

(2) Paragraph (1) of section 6(a) of such Act is amended to read as follows:

"(1) not less than \$1.15 an hour, except as otherwise provided in this section;"

(3) The first sentence of paragraph (3) of section 6(a) of such Act is amended to read as follows:

"(3) If such employee is employed in American Samoa, in lieu of the rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time."

(b) Subsection (b) of section 6 of such Act is amended to read as follows:

"(b) Every employer shall pay to each of his employees who in any workweek (i) is employed by a retail establishment of an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(r), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at the rate of not less than \$1.05 an hour."

(c) Subsection (c) of section 6 of such Act is amended by changing the period at the end thereof to a colon, and adding the following: "Provided further, That the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates, in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1961."

MAXIMUM HOURS

SEC. 6. Subsection (a) of section 7 of such Act is amended by inserting after the word "who" the words "in any workweek".

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 7. (a) Section 8 of such Act is amended by inserting after "section 6(a)" wherever such words appear the following: "or in section 6(b), whichever may be applicable".

(b) Subsection (a) of section 8 of such Act is further amended by inserting after the word "industries" where it appears in the first sentence the words "or retail establishments of enterprises"; and by inserting after the words "production of goods for commerce" where they appear in the second sentence the following: "or by any retail establishment of an enterprise engaged in commerce or in the production of goods for commerce."

CHILD LABOR PROVISIONS

SEC. 8. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "or in any retail establishment of an enterprise engaged in commerce or in the production of goods for commerce."

EXEMPTIONS

SEC. 9. (a) Clause (1) of section 13(a) of such Act is amended to read as follows: "(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman

(as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or".

(b) Clause (2) of section 13(a) of such Act is amended to read as follows: "(2) any employee employed by any retail or service establishment (except a retail establishment in an enterprise engaged in commerce or in the production of goods for commerce, other than such a retail establishment which has an annual dollar volume of sales (exclusive of excise taxes at the retail level which are separately stated) of less than \$250,000), more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located. A retail or service establishment shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or".

(c) Clause (13) of section 13(a) of such Act is amended to read as follows: "(13) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or".

(d) Section 13(a) of such Act is amended by changing the period at the end thereof to a semicolon and adding the following: "or (16) any employee employed by a retail establishment who is employed in connection with a lunch counter, restaurant, or cafeteria in such establishment; or (17) any employee of a retail gasoline establishment; or (18) any employee of an establishment which is primarily engaged in the business of selling automobiles, trucks, or farm implements."

(e) Section 13(b) of such Act is amended by changing the period at the end thereof to a semicolon and adding the following: "or (6) any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located in a city or town of one hundred thousand population or less, according to the latest available decennial census figures as compiled by the United States Bureau of Census, except where such city or town is part of a standard metropolitan area as defined and designated by the Bureau of Census, which has a total population in excess of one hundred thousand; or (7) any employee employed by a retail establishment of an enterprise engaged in commerce or in the production of goods for commerce whose minimum rate of wages is governed by section 6(b) of this Act; or (8) any employee employed in a bona fide local retailing capacity (as such term is defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act)."

EMPLOYMENT OF STUDENTS

SEC. 10. Clause (1) of section 14 of such Act is amended by striking out "and" after "apprentices," and by inserting after "messages", the following: "and of full-time students outside of their school hours,".

STUDY TO SIMPLIFY AND REMOVE INEQUITIES IN AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS

SEC. 11. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(b)(3), 7(c), and 13(a)(10), and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data, and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

EFFECTIVE DATE

SEC. 12. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act.

Mr. GOLDWATER. Mr. President, briefly, as I do not wish to detain the Senate, I think this little discussion at the conclusion of the day has been very illuminating in several respects. First, it points up the troubles we run into when we try to get quickly into the details of a complicated measure. I doubt that many of my colleagues have had an opportunity to read the reports on their desks. The report was available this morning at 9:30. But if they have had such an opportunity, then they have probably read, on page 95, and on to the top of page 96, the discussion that took place in the hearings on the bill between Mr. Meiklejohn, legislative representative of the AFL-CIO, and myself, who certainly am no lawyer by any stretch of the imagination. But this discussion points to the confusion which can exist between lay minds and legal minds.

I opened the colloquy by saying:

Mr. Meiklejohn, I want to get back to this enterprise question.

I think we all agree that the Supreme Court statements or the present definitions of "affecting commerce" are as broad as they can be made. Now will you tell me the difference between "affecting commerce" and "enterprise" as described in subsections on page 3?

Mr. MEIKLEJOHN. I am not sure that I can do so in any definitive way, Senator * * *.

Senator GOLDWATER. You are a lawyer. Is this definition narrower than the Supreme Court decision?

Mr. MEIKLEJOHN. I would say that in some areas it may be broader, and in others it may be narrower, Senator. I think it is substantially similar.

Senator GOLDWATER. If you think it is substantially similar, then why would you object to having the "affecting" language in it?

Mr. MEIKLEJOHN. The "affecting commerce" language?

Senator GOLDWATER. Yes.

Mr. MEIKLEJOHN. We would not object to that. We have supported legislation for many years in which we have urged Congress to extend coverage of the act to employees who work in industry affecting commerce.

Senator GOLDWATER. So you would have no objection to using the language that was in the last year's bill?

Mr. MEIKLEJOHN. No, indeed.

Senator GOLDWATER. So, in effect, there is no difference?

Mr. MEIKLEJOHN. We argued, in support of that, Senator, that it would be desirable to use that concept, because it was a concept that had been used in other labor statutes. It was, therefore, one as to which there had been definitive court decisions so that people would know what the scope of the act was.

Senator GOLDWATER. So there is actually in your mind no difference between the two?

Mr. MEIKLEJOHN. I won't say there is no difference between the two because there has not heretofore been in the law the concept of the enterprise engaged in commerce or in the production of goods for commerce.

I point out that that is quite a damaging statement by a learned lawyer as to the effect of the language proposed in the bill.

Just a little later in the colloquy, which ended there, I asked him:

It would be possible then under this language or the "affecting commerce" language, that an enterprise entirely local in nature, doing no business outside the State, other than handling merchandise that was brought in from out of State, or one item was brought in from out of State, such as the soap in the case of a laundry, could come under commerce. Is that correct?

Mr. MEIKLEJOHN. That is correct. As I say, this depends upon whether or not the Federal courts can be persuaded in a given situation that the connection between the establishment or the enterprise and interstate commerce is such that it brings that establishment or enterprise within the scope of the commerce clause, as utilized by Congress in this legislation.

So I do not agree with the Senator from Pennsylvania that this bill does not present a constitutional question. It does present one, because we are tampering further with one of the clauses of the Constitution, the interstate commerce clause.

I wanted to end the evening with this discussion so that tomorrow morning, when we read the RECORD, we can read the discussion that went on in the hearing.

Mr. McNAMARA. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield.

Mr. McNAMARA. The colloquy to which the Senator has referred related to the bill as it was before acceptance of the Prouty amendment. Does not the acceptance of the Prouty amendment lay a lot of this question at rest?

Mr. GOLDWATER. Not in my mind. I do not think it has anything to do with it.

Mr. McNAMARA. It related to \$250,000 worth of goods in a retail establishment coming across State lines.

Mr. GOLDWATER. It has no effect at all on the matter I am discussing. I think it bears very heavily on the discussion that was engaged in by the Senator from Oklahoma, but I am talking about the substitute language that is in the place of the "affecting commerce" language amendment. That was the language which prevented the bill from becoming law last year; it was not the question of \$1 or \$1.25. There was serious concern on the part of the Members in both bodies of Congress that the language went too far. It was

thought that the language could override the constitutional language and, in effect, put the Main Street merchant and the small businessman under the concept of doing interstate commerce. That is the question to which I shall address myself tomorrow. One of the amendments will attempt to change the bill into language that will not be as dangerous as the language contained in the bill.

Mr. McNAMARA. I thank the Senator.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a summary of the major points of the minimum wage provisions for presently covered workers and the wages and hours for newly covered workers, because it will answer some of the questions which have been raised.

There being no objection, the extracts

	Minimum hourly wage	Overtime requirements
1st year after enactment.....	\$1.00	No overtime requirements.
2d year after enactment.....	1.05	After 44 hours a week.
3d year after enactment.....	1.15	After 42 hours a week.
Thereafter.....	1.25	After 40 hours a week.

(The same as the Senate-passed bill last year.)

C. Coverage

Coverage of the act is extended to the following categories of enterprises (except those specifically exempted) which are "engaged in commerce or in the production of goods for commerce":

1. Retail and service trade: The committee bill covers retail or service enterprises which are engaged in commerce as described above, if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more, and if the annual gross volume of sales of such enterprise is not less than \$1 million, exclusive of excise taxes at the retail level which are separately stated. (The Senate-passed bill last year covered retail or service enterprises with \$1 million in annual sales if they were engaged in any activity affecting commerce.)

The bill, however, exempts the following types of establishments and employees in the retail trade:

(a) Small stores in any covered retail enterprise are exempt from both minimum wage and overtime if the store has less than \$250,000 in annual sales (exclusive of excise taxes)—last year's "Fullbright amendment." (Same as Senate-passed bill last year.)

(b) Hotels, motels, and restaurants are exempt from both minimum wage and overtime. (Similar to Senate-passed bill last year.)

(c) Motion picture theaters are exempt from both minimum wage and overtime. (Same as Senate-passed bill last year.)

(d) Amusement or recreational establishments which operate on a seasonal basis are exempt from both minimum wage and overtime. (Senate-passed bill last year excluded only nonprofit hospitals.)

(e) Hospitals, nursing homes, and schools for the handicapped or gifted children are exempt from both minimum wage and overtime. (Same as Senate-passed bill last year.)

(f) Automobile dealers and farm implement dealers are exempt from the overtime requirements. (The Senate-passed bill last year exempted such establishments from both the minimum wage and overtime requirements.)

were ordered to be printed in the RECORD, as follows:

PART III. SUMMARY OF MAJOR PROVISIONS

The committee bill makes the following principal changes in the Fair Labor Standards Act of 1938, as amended (in parentheses, following each item, is shown a comparison with the bill as passed by the Senate last year):

A. Minimum wage for presently covered

For workers to whom a minimum wage of \$1 an hour now applies, the rate would be increased to: \$1.15 during the first 2 years; \$1.25 thereafter. (The Senate-passed bill last year set the rates at \$1.15 the first year, \$1.20 the second, and \$1.25 thereafter.)

B. Wages and hours for newly covered

For workers newly brought under the minimum wage and overtime provisions of the act, the committee bill establishes the following schedule for reaching the minimum of \$1.25 an hour and the basic workweek of 40 hours:

(g) Commissions: The bill exempts from overtime employees who receive more than half their pay in commissions if their pay equals at least time and one-half the minimum rate. (The Senate-passed bill last year contained no such provision.)

(h) Executive or administrative employees (assistant managers): The committee bill exempts such employees in retail stores from both minimum wage and overtime even if they perform up to 40-percent nonexecutive and nonadministrative work. (The Senate-passed bill last year contained no such provision.)

(i) Student workers: The committee bill permits the employment of such workers at subminimum rates in positions not ordinarily given to full-time employees. (The Senate-passed bill last year contained no such provision.)

2. Laundries: (a) The committee bill covers laundry and drycleaning enterprises which are engaged in commerce as described above, if the annual volume of sales of the enterprise is not less than \$1 million (exclusive of excise taxes).

(b) It also removes from the exemption in the present law any laundry which has \$250,000 in annual sales if it is in substantial competition in the same metropolitan area with a laundry which does more than half of its business across State lines.

(c) The bill also removes from the exemption in the existing law any laundry which does more than 25 percent commercial work. (These provisions are the same as in the Senate-passed bill last year.)

(d) The bill also provides that laundry workers of hotels, motels, and restaurants shall be exempt only if such work is exclusively on their own establishment's laundry. (The Senate-passed bill last year contained no such provision.)

3. Interurban and metropolitan transit: The committee bill covers transit enterprises for minimum wage but not for overtime. (Same as Senate-passed bill last year.)

4. Establishments which now have covered employees: The committee bill covers all employees of an establishment (not included in other categories of new coverage), which has some employees covered by the present law if the establishment is part of an enterprise that has \$1 million or more in annual sales. (The Senate-passed bill last year

covered such establishments which had \$250,000 or more in annual sales.)

5. Construction enterprises: The committee bill covers such enterprises which have at least \$350,000 in annual business. (Same as Senate-passed bill last year.)

6. Gasoline service establishments: The committee bill covers for minimum wage but not for overtime gasoline service establishments which have not less than \$250,000 in gross annual sales (exclusive of excise taxes at the retail level which are separately stated). (Same as Senate-passed bill last year.)

D. Changes in exemptions

The committee bill makes the following changes in the exemptions provisions of the present act:

1. Seamen: The committee bill covers for minimum wage but not for overtime seamen on American-flag vessels. (Same as Senate-passed bill last year.)

2. Telephone operators: The committee bill covers telephone operators other than those employed by an independently owned telephone company which has not more than 750 telephones. (Same as Senate-passed bill last year.)

3. Seafood processing: The committee bill covers for minimum wage but not for overtime employees engaged in onshore processing of seafood (seafood cannerys are treated in this way in the existing law). (Same as Senate-passed bill last year.)

4. Processing and canning of fruits and vegetables—(a) Overtime exemptions: The committee bill reduces the 28-week overtime exemption for the processing and canning of fruits and vegetables to 20 weeks each year, 10 of which are completely exempt from overtime and the other 10 weeks limited to 12 hours a day and 56 hours a week. (The Senate-passed bill last year did not change this exemption as contained in the present law.)

(b) Study of agricultural exemptions: The Secretary of Labor is directed to study the system of exemptions for the handling and processing of agricultural products under sections 7(c), 13(a)(10), and 7(b)(3), and submit next January a special report containing the results of such study, together with recommendations to simplify and remove any inequities. (The Senate-passed bill last year contained no such provision.)

5. Broadcasters: The committee bill exempts from the overtime requirements announcers, news editors, and chief engineers in radio and television stations located in cities of 50,000 or less population outside of metropolitan areas. (Same as Senate-passed bill last year.)

6. Bulk petroleum dealers: The committee bill exempts from overtime employees of independently owned bulk petroleum enterprises which have not more than \$1 million a year in gross annual sales exclusive of excise taxes. (The Senate-passed bill last year exempted such distributors from overtime regardless of the size of the enterprise.)

7. Drivers and driver's helpers: The committee bill exempts from overtime local delivery drivers and driver's helpers paid on a trip rate plan found by the Secretary to have the purpose and effect of reducing hours worked to accord with the standard under the act. (Similar to Senate-passed bill last year.)

E. Foreign trade

The Secretary is authorized to study the effects on employment in industries under act of imports and exports.

F. Puerto Rico

The minimum wage rates in Puerto Rico for presently covered employees, established through tripartite industry committees, are increased by the same percentage as the mainland minimum (15 percent within 60 days after the effective date of the amend-

ments or 1 year from the effective date of the most recent wage order, whichever is later; and 10 percent 2 years after the 15-percent rate goes into effect). However, any industry in Puerto Rico claiming that the increases will substantially curtail employment is given the right to petition the Secretary for appointment of an industry committee to determine the rates for such industry in lieu of the statutory increases. (Same as Senate-passed bill last year.)

G. Effective date

The 1961 amendments become effective upon the expiration of 120 days after enactment, and the Secretary is given authority to promulgate necessary rules, regulations, or orders on and after the date of enactment.

Mr. GOLDWATER. Mr. President, I did not compliment the Senator from Michigan this morning, but I do so now. He certainly made an explicit explanation of the bill. I did not think I should engage in any discussion of it, because it would have been redundant, we have been over this subject so many times.

I may say to the Senator from Minnesota [Mr. HUMPHREY], who stands in front of me at this time, that I shall go at great lengths to disagree with him tomorrow, and I think I can count on the Senator.

Mr. HUMPHREY. The Senator means, of course, he can count on me to disagree with him.

Mr. GOLDWATER. Yes.

Mr. HUMPHREY. Yes, to disagree, and I will try to be a good learner from the Senator from Arizona.

Mr. GOLDWATER. I could gladly sit here and watch the Senator squirming around and changing his position from that of a conservative to that of an ultra-liberal. I only wish, as a poor, working conservative, I could have the ability to enable me to restore to the ranks the great patriot, the Senator from Minnesota.

Mr. HUMPHREY. Do not give up hope.

Mr. GOLDWATER. I am not giving up hope. [Laughter.]

Mr. HUMPHREY. The Senator must not be so disconsolate. We expect, even, to get his vote for the McNamara bill. I do not know whether I speak for the Senator from Michigan, but every time I see the Senator from Arizona I think so well of him I know his political soul can be saved. [Laughter.]

We are going to practice a little political salvation.

Mr. GOLDWATER. The Democrats have given up everything but hope.

I will say the Senator from Minnesota has the most delightfully built-in "disagree-er" I have ever run into, and I look forward to tomorrow.

Mr. HUMPHREY. I thank the Senator. [Laughter.]

Mr. McNAMARA. Mr. President, I ask unanimous consent to have printed in the RECORD a statement entitled "Legal and Constitutional Implications of the Committee Bill," prepared by the staff of the committee, so that it will be available to Senators tomorrow.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

LEGAL AND CONSTITUTIONAL IMPLICATIONS OF THE COMMITTEE BILL

THE ISSUE INVOLVED

Does the constitutional basis for new coverage contained in the committee bill involve novel concepts of Federal power under the commerce clause?

It is the conclusion of this memorandum that this bill presents no constitutional issues, but rather, poses a question of policy for the Senate to determine.

PROVISIONS INVOLVED

The pertinent coverage provisions in the committee bill, amending the Fair Labor Standards Act, as amended (29 U.S.C. 201 et seq.) are contained in section 3(s)(1). The section would define "enterprise" engaged in commerce or in the production of goods for commerce to mean—

"Any of the following in the activities of which employees are so engaged, including employee handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

"(1) Any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1 million, exclusive of excise taxes at the retail level which are separately stated and if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from reselling establishment) which amount in total annual volume to \$250,000 or more.

The Monroney amendment would restrict coverage in the retail or service trade to those establishments having two or more stores in two or more States.

ACT'S PRESENT BASIS OF COVERAGE

Coverage under the present act is limited to those employees who are "engaged in commerce or in the production of goods for commerce."

1. "Engaged in commerce"

(1) Section 3(b) defines "commerce" to include interstate or foreign commerce in the constitutional sense, so that it extends to the farthest reaches of such commerce, bringing within the basic coverage of the act all employees in it or so closely related to it as to be, in legal contemplation, a part of it.¹ This includes not only the employees who move the goods, but also those who write the letters and keep the books relating to the interstate movement,² and those who maintain the instrumentalities by which the commerce is carried on.³

"2. Production of goods for commerce"

"Produced" is defined in section 3(j) to include manufacturing, mining, etc. The definition also includes "any closely related process or occupation directly essential to the production," and covers employees engaged in clerical, maintenance and custodial work as well as those engaged in production.⁴

The definition of "goods" in section 3(i) extends to "any part or ingredient thereof," which means that a producer who distributes his products locally must comply with the

¹ *Overstreet v. North Shore Corp.*, 318 U.S. 125 (1943); *Federsen v. J. F. Fitzgerald Construction Co.*, 318 U.S. 740 (1945); *McLead v. Threlkeld*, 319 U.S. 491 (1943); *Malling v. Jacksonville Paper Co.*, 317 U.S. 564 (1943).

² *Malling v. Jacksonville Paper Co.*, 125 F. 2d 395 (C.A. 5, 1942).

³ *Overstreet v. North Shore Corp.*, *supra*; *Federsen v. J. F. Fitzgerald Construction Co.*, *supra*.

⁴ H. Managers Report, 95 Cong. Rec. 14928, 14929; Majority of Senate Conferees, 95 Cong. Rec. 14874, 14875; *Union National Bank v. Durkin*, 207 F. 2d 848 (C.A. 3, 1953), *Mitchell v. Famous Realty*, 211 F. 2d 198 (C.A. 2, 1954), cert. den. 348 U.S. 823 (1954).

act if he has reason to believe that all or part of them will be used as ingredients of other goods produced for interstate shipment.⁵ Also included are "articles or subjects of commerce of any character" such as Western Union Co.'s telegrams,⁶ and the issuance of bonds, stocks, and the like.⁷

3. Interpretation

In keeping with these broad statutory definitions of the coverage language used in the present act, the courts have repeatedly expressed the view that this language should receive a liberal interpretation consonant with the definitions, with the purpose of the act, and with its character as remedial and humanitarian legislation.⁸

Thus, the undefined word "for" in the phrase "production * * * for commerce" has not been restricted to production for shipment in commerce, but has been applied to bring within the protection of the act production for local use in facilitating interstate commerce in other goods, such as the production of rock and paving material for local use by others in maintaining roads, railways, and airport runways used in the interstate movement of other goods.⁹ Similarly, the phrase as a whole has been applied to cover all of the production of goods for a stockpile, only a relatively small part of which is regularly selected for interstate shipment,¹⁰ and to cover all of an employee's hours of work in a workweek if part of it is covered work.¹¹

CONSTITUTIONALITY OF BASIS OF COVERAGE PROPOSED IN THE COMMITTEE BILL

The relationship of the production of goods to their distribution

The constitutional authority of the Congress, in the exercise of the commerce power, to extend the act's coverage on the basis provided in the committee bill is well established.¹²

The commerce clause extends not only to the movement of goods in commerce, but also to those related activities preceding or following such movements. Though the present act extends to a whole complex of activities which precede commerce, it does not extend to the many other activities which follow commerce, and which are of equally vital concern to the commerce of the Nation.

The operations of retail enterprises which would be made subject to the act by the committee bill comes within this latter category of activities. There is no constitutional reason for continuing this distinction—it is rather a matter of policy to be determined by the will of Congress.

Under the act's present basis of coverage, activities on goods before their movement in interstate commerce are covered. This recognizes the relationship of such within-State activities that precede movement in

interstate commerce as being an integral part thereof. On the other hand, within-State activities that follow the movement of the goods in interstate commerce are not covered by the present law.

Retailing need not be multi-State operation to come within scope of Federal commerce power

It is settled that "the power of Congress to regulate interstate commerce extends to the regulation through legislative action of interstate activities which have a substantial effect on the commerce or the exercise of the congressional power over it."¹³

It is also settled that the question of whether the conduct of an enterprise has a substantial impact on commerce among the States "is a matter of practical judgment," and that the "exercise of this practical judgment the Constitution entrusts primarily and very largely to the Congress."¹⁴

It is upon the orders placed for out-of-State goods and their subsequent sales by the enterprises in this industry that the production for commerce and the continuing flow across State lines of consumer goods depends. The retail sale of goods by our large enterprises do not involve a purely local activity. Rather, they represent the terminal activity of a complex and huge interstate distribution and movement of goods to the ultimate consumer. Such local coloration has been overemphasized at the expense of the relation of retailing to interstate commerce. As stated in the report of the Committee on Labor and Public Welfare during the 86th Congress:¹⁵

"Retailing can be considered as local in character only if it is viewed from a narrow technical approach limited to the fact that sales of an individual store are generally restricted to a given locality. But a realistic approach must also consider the origin of the goods and the structure of retailing used to sell the goods. There is nothing local about retailing which purchases goods from various States of the Union and from foreign markets."

A recent report of the Committee on Education and Labor of the House of Representatives also states:¹⁶

Retailing today is no longer essentially local in nature. It has become a vital and indeed indispensable part of the interstate stream of commerce through which flows the huge volume of consumer goods produced, shipped, and distributed to meet the individual and family demands of our Nation's population. The efficiency with which the country's retail enterprises perform their function of getting these goods to consumers directly affects the vitality and growth of these segments of American industry which produce, handle, and transport through the arteries of interstate commerce from every corner of the land the commodities which supply our citizens in all the 50 States."

The facts of mass distribution of goods moving across State lines amply substantiates the impact of retailing on the flow of commerce.¹⁷

¹³ *United States v. Darby*, *supra*.

¹⁴ *Polish National Alliance v. N.L.R.B.*, 322 U.S. 643, 650 (1944).

¹⁵ S. Rept. 1744, p. 15.

¹⁶ H. Rept. 75, 87th Cong., p. 8.

¹⁷ See *Amalgamated Meat Cutters and Butcher Workmen of North America v. Fairlawn Meats, Inc.*, 353 U.S. 20 (1957) (three retail meat markets, all of whose sales were interstate, but whose annual out-of-state purchases totaled slightly more than \$100,000 out of gross purchase of \$900,000; *San Diego Building Trades Council v. Garmon*, 353 U.S. 26 (1957) (two retail lumber yards whose out-of-state purchases totaled \$250,000). See also *Howell Chevrolet Co. v. N.L.R.B.*, 346 U.S. 482 (1953) (retail automo-

The regulation of the retail industry under other Federal statutes

The exercise of Federal authority under the commerce clause with respect to employment in retailing and with respect to the retail distribution of goods which have moved across State lines is not novel. The National Labor Relations Act has exclusive jurisdiction with respect to labor relations problems of retailers handling such goods, even though all of their sales were wholly intrastate.¹⁸ The constitutional power of Congress under the commerce clause to exercise authority with respect to "articles that have completed an interstate shipment and are being held for future sales in purely local or intrastate commerce" is also settled. For example, in the case of *United States v. Sullivan*,¹⁹ a druggist was convicted of failure to comply with labeling requirements for sulfathiazole which was sold to customers after it had moved in commerce. A recent exercise by the Congress of this authority is the legislation (Public Law 85-506) requiring certain information for prospective purchasers to be kept posted on new automobiles prior to their sale to the ultimate consumer and providing penalties for any willful removal or alteration of the label containing the required information.

Use of \$1 million sales test in establishing coverage is a matter of policy

The foregoing analysis has established the constitutional power to extend the Wage-Hour Laws to retailers who sell goods which have been purchased in interstate commerce. The proposal of the committee is to limit the extent to which the retail industry is to be covered. As a matter of congressional policy, the committee bill has used a dollar standard in determining this boundary. The exemption of those establishments falling outside this boundary is a matter of congressional judgment and does not involve an interpretation or application of the commerce clause.

The last Congress, in enacting the Landrum-Griffin Act, set the retail standard at \$500,000 for coverage under the National Labor Relations Act.²⁰ In so doing the 86th Congress did not question the policy that this volume of business was sufficient to justify a continuance of Federal regulation over this segment of the industry.

The million-dollar limitation undoubtedly provides a coverage which falls far short of exercising the constitutional power to its fullest extent. It is now well settled by decisions of the Supreme Court that the constitutional power extends to activities affecting interstate commerce in any amount or volume not so minimal and sporadic as to fall within the doctrine of *de minimis non curat lex*. As stated by the Supreme Court in a case involving the National Labor Relations Act, "The power of Congress to regulate interstate commerce is plenary and extends to all such commerce be it great or small," since "commerce may be affected in the same manner and to the same extent in proportion to its volume, whether it be great or small."²¹

Thus, in *Guss v. Utah Labor Relations Board*,²² the Supreme Court held that manufacturing operations involving the inflow from out-of-State sources of less than \$50,000 of supplies sufficiently affected interstate commerce to invoke coverage of the

dealer purchasing from local warehouse of General Motors autos and parts manufactured out of State.

¹⁸ *Ibid*.

¹⁹ 332 U.S. 689 (1948).

²⁰ Public Law 86-257, sec. 701.

²¹ *NLRB v. Fainblatt*, 306 U.S. 601, 606-607 (1939); see also *NLRB v. Denver Bldg. Council*, 341 U.S. 675, 684-685 (1951); *Carpenters Union v. NLRB*, 341 U.S. 707 (1951).

²² 353 U.S. 1 (1957).

⁵ *Tobin v. Celery City Printing Co.*, 197 F. 2d 228 (C.A. 5, 1952).

⁶ *Western Union Telegraph Co. v. Lenreeth*, 323 U.S. 490 (1945); the holding that Western Union might employ oppressive child labor because it was engaged in interstate commerce rather than production therefore is no longer the law in view of section 12(d) supplied by the Fair Labor Standards Amendments of 1949.

⁷ *Union National Bank v. Darby*, *supra*.

⁸ *Phillips Inc. v. Malling*, 324 U.S. 490 (1945); *U.S. Cartridge Co. v. Powell*, 339 U.S. 497 (1950); *Roland Electrical Co. v. Malling*, 326 U.S. 657 (1946).

⁹ *Alstate Construction Co. v. Durkin*, 345 U.S. 13 (1953); *Thomas v. Hempt Bros.*, 345 U.S. 19 (1953).

¹⁰ *United States v. Darby*, 312 U.S. 100 (1941); *Mabee v. White Plains Pub. Co.*, 327 U.S. 178 (1946).

¹¹ *Walling v. Jacksonville Paper Co.*, *supra*.

¹² *U.S. v. Darby*, *supra*.

National Labor Relations Act and to oust State jurisdiction even though the National Labor Relations Board has declined to assert jurisdiction. And in *N.L.R.B. v. Stoller*,²³ the National Labor Relations Act was held applicable to a local drycleaner who purchased \$12,000 worth of supplies from outside the State, the court holding that that amount "was not so insignificant as to come within the rule de minimis non curat lex."

Use of \$250,000 inflow test

The establishment of the \$1 million sales standard does not of itself establish the constitutional basis for coverage since the goods sold must themselves depend upon the flow of commerce. In the interest of certainty, the committee has used a dollar standard of \$250,000 to determine the volume of such flow to be required as a matter of congressional policy. Only when an enterprise receives goods for resale that move or have moved across State lines in the total annual volume of \$250,000 will the enterprise be covered.

CONCLUSION

The extension of the act's coverage to additional workers provided in the committee bill is a valid exercise of the Federal commerce power. Its approach is moderate and practical, being designed to bring within the act's coverage the employees of only those enterprises whose operations have a significant impact on interstate commerce. It need not be demonstrated that a business must maintain establishments in more than one State in order to be engaged in interstate commerce. It is sufficient that it purchases or receives goods in substantial quantities, fixed by the committee bill at \$250,000 each year, that move or have moved across State lines.

The fact that retail sales constitute the terminal activity in the movement of goods from producer to ultimate consumer does not make them any less a vital part of the flow of interstate commerce. The prerequisites for coverage that the enterprise have employees engaged in or producing for commerce, that not less than \$250,000 of its goods comes from outside the State and the \$1 million sales test insure that the enterprises covered by the committee bill are not small local businesses and are fairly subject to Federal wage-hour coverage as a matter of congressional policy.

Mr. McNAMARA. In addition, there is in the report a section dealing with the "Interstate Commerce Basis of New Coverage," and I ask unanimous consent that this excerpt be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

INTERSTATE COMMERCE BASIS OF NEW COVERAGE

The committee bill, like the original act, relies on engagement in "commerce" or in the "production of goods for commerce" to establish a firm constitutional base for the legislation under the commerce power. Over 20 years ago, in *United States v. Darby*, 132 U.S. 100, the constitutionality of this approach to Federal regulation of wages and hours was thoroughly considered and affirmatively settled by the Supreme Court, which has made it abundantly clear that this act involves considerably less than a full exercise of the constitutional power. Since that time, further legislative and judicial guidance as to the boundaries of coverage under this language of the act has been provided, and there is a large body of administrative and judicial interpretation which will be helpful to those affected by

the committee bill in adjusting to the new provisions.

The committee believes, therefore, that the approach adopted by this bill for application of the commerce power has advantages over the "affecting commerce" language used in H.R. 12677, 86th Congress, as amended and passed by the Senate in August 1960. The coverage provided is substantially the same and the committee bill's adherence to the interstate commerce concepts which historically have characterized this act should serve to allay the misgivings voiced by some concerning the "affecting commerce" language in last year's Senate-passed bill. The committee has no doubt about the constitutionality of either approach, and notes that activities "affecting commerce" provide a basis for coverage in much of the major legislation in the labor-management field, including the Labor-Management Reporting and Disclosure Act of 1959, the Welfare and Pension Plans Disclosure Act, the Labor Management Relations Act, 1947, the National Labor Relations Act, and the Federal Employers' Liability Act. All but the last of these acts have application to employment in retailing.

The committee bill extends coverage to additional employees only in enterprises which have employees engaged in commerce or in the production of goods for commerce, and contains provisions designed to assure that the engagement in interstate commerce activities is substantial. It is settled that an employer is engaged in commerce or in the production of goods for commerce where he has employees so engaged (*Kirschbaum v. Walling*, 316 U.S. 516; and see *Mabee v. White Plains Publishing Co.*, 327 U.S. 178).

The committee believes that the traditional interstate commerce concepts of this act are clearly applicable to retailing enterprises that purchase or receive goods for resale which move or have moved across State lines. The committee notes that the Congress in 1938 provided an exemption for retail and service establishments, which would not have been necessary if their business had not involved engaging in commerce or in the production of goods for commerce within the meaning of the act.

It is clear, for example, that the sale in New York of furniture produced in North Carolina necessarily involves the production of the furniture for commerce in North Carolina, its shipment across State lines to New York with the aid of employees engaged in commerce, and its distribution to the ultimate consumers in New York. All these are equally essential to interstate commerce in such furniture. If sales stop in New York, if production stops in North Carolina, or if carriers do not operate between the two States, the furniture will not move in commerce.

It is plainly appropriate, therefore, to extend to the employees of the retail selling enterprise the same minimum wage protection that the act now affords to the production and transportation employees, who participate to no greater extent in the interstate commerce carried on in the same goods.

To insure that the bill's new coverage in the retail field will reach only those enterprises which are substantially engaged in interstate activities, the bill contains a further test. Retail selling and servicing enterprises covered by section 3(s)(1) as proposed in the bill will not only have employees engaged in commerce or in the production of goods for commerce, and gross \$1 million or more annually, exclusive of specified taxes, but will also purchase or receive goods for resale that move or have moved across State lines (not counting movements in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more.

This volume of purchase and receipts of interstate commerce goods, together with the

gross annual sales volume of \$1 million or more exclusive of specified taxes, should provide more than adequate assurance that the newly covered enterprises will be those plainly engaged to a substantial extent in interstate commerce and should make it abundantly certain that no small local business will be affected. The committee notes that under the present act local producers having a much smaller dollar volume of business and a considerably smaller percentage of business involving shipments across State lines are required to comply with the law, and that under the National Labor Relations Act as amended by the Labor-Management Reporting and Disclosure Act of 1959, retail enterprises having a considerably smaller amount of interstate activity have been held to be covered, and the National Labor Relations Board has been prohibited from declining jurisdiction of such an enterprise having \$500,000 or more in gross annual volume of business.

It will be noted that the application of the test relating to purchases and receipts of goods for resale, where such goods move or have moved across State lines, is not based on any interstate movement of such goods from the reselling establishment in its deliveries to customers. The interstate movement referred to is, rather, that movement by which such goods have been made available for sales of the reselling establishment, as where a retail enterprise located in one State purchases or receives goods for resale to its customers and these goods move or have moved in commerce from other States. Similarly, interstate movement within the intentment of the provision would occur where a chain retailing organization purchases or receives goods for resale by establishments located in different States and any of the goods so purchased or received move or have moved across State lines to the enterprise or its suppliers or from the enterprise or its suppliers to establishments which will undertake to resell the goods.

The use of the descriptive phrase "for resale" to qualify the term "goods" in the above test insures that the goods purchased and received which are counted toward the \$250,000 minimum amount will include stock-in-trade of the affected enterprise but not its capital goods such as fixtures and equipment. The intention at the time of purchase or receipt of the goods should be a sufficient criterion to determine whether they are purchased or received "for resale," and a subsequent sale of the goods in regular course of business would be clear evidence of such an intent.

The exclusion of essentially local retail businesses from the new coverage may be illustrated by the familiar types of enterprises which engage in selling handicraft items and similar goods which are locally produced from local materials and are sold in establishments in the towns and on the highways of the State where the goods are made. Under the committee bill such an enterprise, even if it grossed \$1 million or more exclusive of specified taxes annually, would typically not be included in the new coverage because its purchases and receipts of interstate goods would not amount to \$250,000 annually. For purposes of this test same would be true of enterprises making retail sales of locally produced ice, coal, etc., which does not cross State lines.

Finally, the bill carefully avoids extending the act's coverage to so-called "mom and pop" stores in which the only employees are the owner, or persons standing in the relationship of parent, spouse, or child of the owner. The proposed new section 3(s) of the act which defines "enterprise engaged in commerce or in the production of goods for commerce" contains a proviso specifically excluding such businesses from that term.

²³ 207 F. 2d 305 (C.A. 9, 1953) certiorari denied, 347 U.S. 919 (1954).

The committee has considered and rejected as a test of interstate commerce the operation by an enterprise of establishments located in more than one State. The location of the establishments, whether in one or in more than one State, according to the evidence available to the committee, has little or no relation in and of itself to the involvement of the enterprise in interstate commerce. There are many retail selling enterprises, both individual and chain, which operate in only one State but which do many millions of dollars in business and buy and sell huge quantities of goods brought into the State from many other States and foreign countries. On the other hand, many small and local enterprises in metropolitan areas near State lines operate establishments in more than one State. Similarly, there are businessmen who operate stores which are predominantly local in widely separated areas in different States whose involvement in interstate commerce is minimal compared with that of the much larger enterprises which happen to operate within the confines of a single State. The committee is convinced that the tests proposed in the committee bill provide a much sounder approach and a much more accurate gage of interstate commerce activity than does the fact that an enterprise does or does not have establishments in more than one State.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, April 13, 1961, he presented to the President of the United States the following enrolled bills:

S. 178. An act for the relief of Michael J. Collins;

S. 278. An act to amend title II of the Vocational Education Act of 1946, relating to practical nurse training, and for other purposes;

S. 298. An act for the relief of Earl H. Pendell;

S. 900. An act to provide for the striking of medals in commemoration of the 250th anniversary of the founding of Mobile, Ala.;

S. 1295. An act to authorize the use of funds arising from a judgment in favor of the Nez Perce Tribe of Indians, and for other purposes;

S. 1297. An act to authorize the payment of per diem to members of the Indian Arts and Crafts Board at the same rate that is authorized for other persons serving the Federal Government without compensation; and

S. 1298. An act to permit the Secretary of the Interior to revoke in whole or in part the school and agency farm reserve on the Lac du Flambeau Reservation.

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. GOLDWATER. Mr. President, if there is no further business today, in

accordance with the previous order I move that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 6 o'clock and 21 minutes p.m.) the Senate adjourned, pursuant to the order previously entered, until tomorrow, Friday, April 14, 1961, at 10 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate April 13, 1961:

DEPARTMENT OF STATE

Phillips Talbot, of the District of Columbia, to be an Assistant Secretary of State.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 13, 1961:

ATOMIC ENERGY COMMISSION

Leland J. Haworth, of New York, to be a member of the Atomic Energy Commission for the remainder of the term expiring June 30, 1961.

Leland J. Haworth, of New York, to be a member of the Atomic Energy Commission for a term of 5 years expiring June 30, 1966.

NATIONAL LABOR RELATIONS BOARD

Gerald A. Brown, of California, to be a member of the National Labor Relations Board for the remainder of the term expiring August 27, 1961.

Gerald A. Brown, of California, to be a member of the National Labor Relations Board for a term of 5 years expiring August 27, 1966.

UNITED NATIONS

Graham A. Martin, of Florida, to be the representative of the United States of America to the 16th session of the Economic Commission for Europe of the Economic and Social Council of the United Nations.

DEPARTMENT OF THE TREASURY

Stanley S. Surrey, of Massachusetts, to be an Assistant Secretary of the Treasury.

FOREIGN CLAIMS SETTLEMENT COMMISSION

LaVerne R. Dilweg, of Wisconsin, to be a member of the Foreign Claims Settlement Commission of the United States.

U.S. DISTRICT JUDGE

Reynaldo G. Garza, of Texas, to be U.S. district judge for the southern district of Texas, vice James V. Allred, deceased.

COMMISSIONER OF PATENTS

David Lowell Ladd, of Illinois, to be Commissioner of Patents.

U.S. MARSHALS

Joseph N. Tierney, of Illinois, to be U.S. marshal for the northern district of Illinois for a term of 4 years, vice William W. Kipp, Sr.

John Terrill, of Wyoming, to be U.S. marshal for the district of Wyoming for a term of 4 years, vice Noah W. Riley.

Olin N. Bell, of Missouri, to be U.S. marshal for the eastern district of Missouri for a term of 4 years, vice Omar L. Schnatmeier.

Anson J. Anderson, of North Dakota, to be U.S. marshal for the district of North Dakota for a term of 4 years, vice Harry R. Tenborg.

Harry A. Sieben, of Minnesota, to be U.S. marshal for the district of Minnesota for a term of 4 years, vice C. Enard Erickson.

Dave Fresquez, of New Mexico, to be U.S. marshal for the district of New Mexico for a term of 4 years, vice George W. Beach.

George A. Bayer, of Alaska, to be U.S. marshal for the district of Alaska for a term of 4 years, vice Fred S. Williamson.

Francis M. Wilson, of Missouri, to be U.S. marshal for the western district of Missouri for a term of 4 years, vice Burke Dennis.

Covell H. Meek, of Iowa, to be U.S. marshal for the northern district of Iowa for a term of 4 years, vice Clement W. Crahan.

U.S. ATTORNEYS

John F. Quinn, Jr., of New Mexico, to be U.S. attorney for the district of New Mexico for a term of 4 years, vice James A. Borland.

Robert M. Morgenthau, of New York, to be U.S. attorney for the southern district of New York for the term of 4 years, vice S. Hazard Gillespie, Jr., resigned.

Joseph P. Hoey, of New York, to be U.S. attorney for the eastern district of New York for a term of 4 years, vice Cornelius W. Wickersham, Jr.

Raymond J. Pettine, of Rhode Island, to be U.S. attorney for the district of Rhode Island for a term of 4 years, vice Joseph Mainelli.

W. Arthur Garrity, Jr., of Massachusetts, to be U.S. attorney for the district of Massachusetts for a term of 4 years, vice Elliot L. Richardson.

Charles A. Muecke, of Arizona, to be U.S. attorney for the district of Arizona for a term of 4 years, vice Jack D. Hays, resigned.

Edward F. Boardman, of Florida, to be U.S. attorney for the southern district of Florida for a term of 4 years, vice James L. Guilmartin, resigned.

Floyd M. Buford, of Georgia, to be U.S. attorney for the middle district of Georgia for a term of 4 years, vice Frank O. Evans.

Francis C. Whelan, of California, to be U.S. attorney for the southern district of California for a term of 4 years, vice Laughlin E. Waters.

Miles W. Lord, of Minnesota, to be U.S. attorney for the district of Minnesota for a term of 4 years, vice Fallon Kelly, resigned.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

CONTENTS

Issued April 17, 1961
For actions of April 14, 1961
87th-1st, No. 63

Adjournment.....	13
Administrative practice..	8
Appropriations.....	1
Automation.....	9
Conservation.....	17
Dairy products.....	6
Depressed areas.....	5
Flower.....	19
Food processing.....	2
Foreign aid.....	20
Foreign trade.....	11
Forest Service	
appropriations.....	1
Housing.....	15
Meatpacking.....	9
Minimum wage.....	2
Monopolies.....	7
Peace Corps.....	10
Postal rates.....	3
Recreation.....	1
Regulatory agencies.....	8
Research.....	1, 17
Saline water.....	1
Textiles.....	14
Tobacco.....	4
Veterans' loans.....	12, 15
Virgin Islands.....	1
Water resources.....	18
Watersheds.....	16

HIGHLIGHTS: House committee reported Interior appropriation bill (includes Forest Service). Senate debated minimum wage bill. Sen. Anderson, with others, introduced and discussed water resources planning bill.

HOUSE

1. INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1962. The Appropriations Committee reported (during adjournment of the House) this bill, H. R. 6345 (H. Rept. 233), which includes items for the Forest Service as shown in the table at the end of this Digest. Excerpts from the Committee report are also attached. The bill also includes items for saline water research, Outdoor Recreation Resources Review Commission, and Virgin Islands Corporation.

SENATE

2. MINIMUM WAGE. Continued debate on H. R. 3935, to amend the Fair Labor Standards Act and increase the minimum wage gradually to \$1.25 an hour (pp. 5576, 5592-96, 5598-5601, 5604-19, 5625, 5630-33). Agreed to an amendment by Sen. Cooper to continue the present overtime exemptions in the Act for employees in the processing and canning of agricultural products (pp. 5599-5601). Agreed to a unanimous-consent agreement that beginning Tues. debate on any amendment shall be limited to 1 hour and debate on final passage shall be limited to 4 hours (p. 5593).
3. POSTAL RATES. Received from the Post Office Department a proposed bill "to adjust postal rates"; to Post Office and Civil Service Committee. p. 5552

4. TOBACCO. Received a S. C. Legislature resolution urging the establishment of a research project at Florance, S. C., in 1962 dealing with the engineering phases of harvesting, curing, and farm handling of tobacco. p. 5552
5. DEPRESSED AREAS. Received a Wisc. Legislature resolution favoring enactment of S. 1, the depressed areas bill. p. 5552
6. DAIRY PRODUCTS. Received a Minn. Legislature resolution urging enactment of legislation "which will permit the free flow of pure and wholesome dairy products between the States." p. 5552
7. MONOPOLIES. Received a report of the Judiciary Committee, "Antitrust and Monopoly Activities -- 1960" (S. Rept. 167). p. 5553
8. ADMINISTRATIVE PRACTICE. Received a report of the Judiciary Committee on regulatory agencies, "Administrative Practice and Procedure" (S. Rept. 168). pp. 5553-5
9. MEATPACKING; AUTOMATION. Sen. Douglas inserted the statement of the secretary-treasurer, Amalgamated Meatcutters and Butcher Workmen of North America, before a subcommittee of the House Education and Labor Committee on the effects of automation on the meatpacking industry. pp. 5565-6
10. PEACE CORPS. Sen. Goldwater contended that enthusiasm for establishment of a Peace Corps was declining and inserted several items on the matter. pp. 5569-70
11. FOREIGN TRADE. Sen. Wiley inserted an article discussing prospects for increasing U. S. exports, "Forty Billion Dollar Market Beckons U. S. Goods." pp. 5573-5
12. VETERANS' LOANS. At the request of Sen. Mansfield H. R. 5723, to extend the veterans' guaranteed and direct home loan program and to provide additional funds for the veterans' direct loan program, as passed by the House was considered as having been read twice and was laid on the table. pp. 5558, 5629-30
13. ADJOURNED until Tues., Apr. 18. p. 5644

ITEMS IN APPENDIX

14. TEXTILES. Extension of remarks of Sen. Thurmond inserting an article, "Industry In United States Hurt By Oversea Friends," and stating that it presents some important facts to show that something must be done to protect the welfare of the domestic textile industry. pp. A2511-2
15. VETERANS' HOUSING. Speeches in the House by Rep. Saylor during debate on H. R. 5723, to extend the veterans' guaranteed and direct home loan program. pp. A2518-9, A2525

BILLS INTRODUCED

16. WATERSHEDS. S. 1617, by Sen. Allott, to amend the Watershed Protection and Flood Prevention Act to permit certain new organizations to sponsor works of improvement thereunder; to Agriculture and Forestry Committee.

power availability, exchange regulations, credit needs, distributive practices, and a host of other complications—including politics and even religion—must be known and handled with courtesy and efficiency.

The use of improved banking facilities is another essential so maximum credit can be offered to oversea buyers of capital goods. This is often of greater importance to fast-developing countries than price. This is a form of competition the United States is well placed to meet, by virtue of the Export-Import Bank, particularly its collaboration with commercial banks to finance medium-term contracts of 6 months to 5 years.

Then there are several factors which will greatly help the development of U.S. exports in the next 10 years. Chief among these is the gradual lifting of restrictions on dollar imports among the industrialized and industrializing countries of the world. This applies particularly to Europe, Japan, and Australia, where import liberalization last year has already given rise to a remarkable increase in purchases of U.S. goods. The novelty of these products is often the strongest selling point, and there is no doubt that American technology can do much to overcome distance and tariff difficulties.

Moreover, with growing wealth and market size, the elaborate sales and packaging techniques developed with such success in the U.S. domestic market are hardly matched anywhere else. These, too, will have increasing relevance in the future.

Establishing subsidiaries or licensing arrangements abroad, and obtaining controlling interest in foreign enterprise are alternatives which are obviously important to beat the tariff and to set up a lower cost base for developing foreign markets. But for American manufacturers, other than those producing goods in which the United States cannot compete with low cost countries, the question of investment in manufacturing facilities in other industrialized countries needs to be reappraised because:

1. Government encouragement is more likely to be directed to exports of goods rather than of capital, in view of the balance of payments difficulties. Policies toward investing even in Europe are likely to be discouraging. The tax laws which now encourage private investment in developed countries may be modified.

2. Tariffs are gradually being lowered and remaining dollar discrimination abolished in accordance with the General Agreement on Tariffs and Trade.

3. Costs in Europe and the United States will tend to equalize over the next 10 years, progressively reducing the advantage of European production. Even Japan is worried about rising costs and is investing heavily—more than 30 percent more this year than last—to increase productivity and bring down unit costs.

For producers of goods who decide to manufacture in the less developed countries, to whom the Government discouragement of capital export will not apply, it is important to note the countries with which the United States has signed expropriation and transfer of profits guarantee agreements under the Mutual Security Act.

The list is surprisingly long, but has some surprising omissions. In Latin America it does not include Brazil, or Venezuela, and in Colombia, Peru, and Chile the guarantee is limited to inconvertibility of investment receipts and does not cover expropriation.

THE TAX WITHHOLDING SYSTEM

Mr. SMITH of Massachusetts. Mr. President, tomorrow income taxes fall due and once again many taxpayers covered by the withholding system will find

themselves owing the Government substantial sums of money.

The withholding system was established so that taxes could be deducted as wages were earned, but the Internal Revenue Service has instituted a deliberate practice of setting income tax withholding deductions too low to cover the tax employees actually owe.

This system has penalized innocent taxpayers. Working people everywhere have had to make up the substantial shortages caused by the Internal Revenue's withholding system. City, factory, and white-collar employees, secretaries, and wives working to help support their families have told me they were jolted and their budgets were disrupted by the entirely unexpected shortage in their tax withholdings. This system is unfair to the working people of America.

For example: A man working in a bank or a factory earning \$95 a week with a take-home pay of \$77.35 a week must raise \$33.40 in the week in which he pays his tax based on the single standard deduction, or a personal secretary earning \$83.50 a week with a take-home pay of \$68.39 a week must raise \$28.80 in the week in which she pays her Federal income tax.

In the State of Massachusetts where we have income tax, we have been able to match withholdings with the taxes actually due. I see no reason why the Internal Revenue Service cannot work out a similar formula so as to eliminate the hardship which falls upon so many of our people at this time of year.

I would respectfully request that the appropriate committees of Congress investigate the Internal Revenue practices with an eye toward correcting this situation.

THE DEFENSE PROGRAM AND THE B-70 BOMBER

Mr. CANNON. Mr. President, beginning with his inaugural address, President Kennedy has shown through his words and programs that he is determined to give America a position of strength as the basis for preserving the peace. I am confident that the world has been most favorably impressed with his resolution and vigor.

In reaching this vital objective, the present administration must overcome some of the major deficiencies which it has inherited from the past. One of these of great importance is the unsatisfactory treatment of the B-70 weapon system program. Some 10 months ago, I expressed my grave concern over the failure of the last administration to carry out the intent of Congress in pursuing development of the mach 3 B-70 bomber. At that time, the B-70 development program funding had been reduced from the Air Force minimum essential at \$352 million to \$150 million for fiscal year 1960 and the fiscal year 1961 proposed program of \$461 million was reduced to \$75 million. This resulted in abandonment of the weapon system program and adoption of effort leading to a partial prototype aircraft.

Then, last summer, Congress approved a program of \$265 million for fiscal year 1961 with \$100 million to be added to the B-70 if not used on a fighter program. This total of \$365 million would have permitted reinstatement of a full weapon system development leading toward operational capability within a reasonable time period. In my opinion, this was a step toward overcoming the growing imbalance of missiles and manned aircraft in our defense posture during the critical years ahead. Although the fiscal year 1961 program was eventually financed at \$265 million, the \$100 million was not placed on either a fighter program or the B-70 effort.

Now we are facing a decision again on the B-70 weapon system. President Kennedy's defense budget message to Congress on March 28 revealed that the B-70 funding level planned for fiscal year 1962 is only \$220 million, with less than \$300 million to be provided for the following 5 years. The B-70 has been drastically reduced from a complete weapon system program to a prototype development similar to that which created so much concern to us last year.

As President Kennedy mentioned in his message, manned bombers are a continuing requirement as an element of our total strategic capability. As strategic air weapons, both manned bombers and ICBM's serve as deterrents to aggression in time of peace and as destroyers of the enemy's warmaking capability in time of armed conflict. Similarly, it may be said, with ground forces, armor and artillery have the same basic mission which is to destroy the enemy's forces on the field of combat. But, the coexistence of armor and artillery is accepted because of the historic application of these weapons. Incidentally, the artillery projectile is also a ballistic missile. So, as with armor and artillery, the manned bomber and the ICBM should be expected to complement and supplement each other.

The B-70 is being tailored to fulfill the bomber role in the 1965-75 time period. If desired, it could react to even the slightest warning four or five times faster than the present day subsonic B-52, while missiles can be launched only when attack is an absolute certainty. This is true since bombers are recallable and missiles are not. The B-70 force could cover at mach 3 the vast majority of its targets in slightly over 3 hours after takeoff without reliance on tankers. With one refueling, all targets could be covered.

The B-70 would have greater flexibility of employment. It would be capable of carrying a variety of bombs in size, type, and assortment to suit any occasion. It will be capable of operating from dispersed bases or being launched from airborne alert if required. Since weapon delivery can be accomplished with higher accuracy, lower yield weapons can be used to a greater extent assuring target destruction only to the degree necessary. The penetrating bomber can locate and discriminate among enemy targets. It can collect intelli-

gence information on possible new targets and make immediate assessment and report the damage inflicted to determine whether a repeat strike is needed.

The North Atlantic Ocean could be reconnoitered by the B-70 for presence of naval vessels within approximately 4½ hours and the entire Mediterranean within 3 hours after departing the United States. During periods of tension or in limited small wars, the B-70 could be used as visible evidence to demonstrate rapidly the seriousness with which we regard any aggressive act. For example, it would be possible to be over any potential hotspot in the world in 3 hours or less. Should nuclear disarmament efforts succeed, the B-70 could still be employed effectively carrying a large number of nonnuclear munitions in each aircraft.

Certainly missiles must play an increasing role in our strategic planning as the President has so well emphasized in his defense budget. However, dependence upon missiles to the extent indicated by current trends, together with the serious deemphasis on manned aircraft, will provide little or no flexibility to the strategic commander in the late 1960's and early 1970's.

Present budget support for the B-70 leaves me with little confidence that this system so vital to our security and world peace will enter the free world arsenal. Without it, our security will be open to question. To my mind, the B-70 weapon system represents an insurance policy which has the greatest long-range significance toward a well-balanced military posture for our country.

In my opinion, this program should be accelerated and placed on a crash basis if that is what it will take to deliver these superior weapons at the earliest possible date. Therefore, one of our major tasks, I urge you, must be to restore this program to the full stature it deserves. Only in this way can we be certain that our strategic force has the flexible characteristics so essential in meeting an enemy threat of tomorrow.

Mr. MANSFIELD. Mr. President, is morning business concluded?

The VICE PRESIDENT. Is there further morning business? If not, morning business is concluded.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

Mr. MANSFIELD. Mr. President, may I ask what is the pending business?

The VICE PRESIDENT. There is no pending business. The bill (H.R. 3935) will not become the pending business until 12 o'clock, unless there is a unanimous-consent agreement or a motion to bring that about.

Mr. MANSFIELD. Mr. President, I move that H.R. 3935 be laid before the Senate and made the pending business.

The VICE PRESIDENT. The question is on the motion of the Senator from Montana.

The motion was agreed to; and the Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large

enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. MANSFIELD. Mr. President, is there an amendment pending at the present time?

The VICE PRESIDENT. Yes. The question is on agreeing to the so-called Dirksen substitute.

NEEDED: EDUCATION FOR FREEDOM AS WELL AS AGAINST COMMUNISM

Mr. PROXMIRE. Mr. President, the New York Times reports this morning from Bonn, Germany, that Maj. Gen. Edwin A. Walker, the commanding general of the 24th Infantry Division, has instituted an anti-Communist indoctrination program among his troops.

Mr. President, if ever there was a persuasive argument for the establishment of a responsible and intelligent educational program so that our troops can understand the Communist menace against which they are risking their lives on the frontlines, this is it.

I feel very, very strongly that this Nation has fallen down badly in failing to develop an effective system of educating all Americans in the threat of Communist subversion.

Too few Americans love their freedom because too few Americans understand it. Communist subversion has won massive victories in the world. We have developed no authoritative, responsible basis for teaching either to our troops or to any Americans exactly what is the difference between freedom and communism.

Now we are reaping the whirlwind. General Walker is exhibit A in how badly this is needed.

The New York Times reports that General Walker's lessons in the challenge of communism went like this. I quote:

General Walker told the meeting at which the program opened that "communism has infiltrated every institution in the United States in an attempt to overthrow our way of life."

Copies of "The Way of Life of John Birch," a book by Robert H. W. Welch, Jr., of Belmont, Mass., the society's founder, were distributed to the division's company and battery dayrooms. Copies of the society's magazine, American Opinion, were put on sale on Army newsstands in the Augsburg area, where the division is stationed.

Before the indoctrination program got underway, General Walker, according to Overseas Weekly, addressed 200 members of a Parent Teachers Association connected with the division.

He was said to have described as "definitely pink" former President Harry S. Truman, Dean Acheson, former Secretary of State, and Mrs. Franklin D. Roosevelt. Edward R. Murrow, Director of the U.S. Information Agency, Walter Lippmann, the newspaper columnist, and Eric Sevareid, a commentator for the Columbia Broadcasting System were said to be confirmed Communists.

Imagine that, Mr. President—Edward R. Murrow, Walter Lippmann, and Eric Sevareid—confirmed Communists.

These are three of the finest, most patriotic Americans alive. Each of

these men is in fact the strongest kind of opponent of communism, because Murrow, Lippmann, and Sevareid, unlike General Walker, deeply understand the real meaning of the freedom, including the freedom to dissent.

Now, of course, Mr. President, this idiotic attack on these great Americans will not affect them in the slightest. None of them needs my defense.

General Walker should be investigated and if this story is true, he, of course, should be relieved of his command at once, and I mean promptly.

But, Mr. President, let the Senate of the United States learn a real lesson from this crass stupidity of an American general. Let us ask, How can a man who has achieved this military eminence be so tragically and pitifully misinformed? How can his commanding officers have permitted this to go on for a single day—let alone for months?

The answer, Mr. President, is unforgivable official ignorance. It is time this Government takes the moral and philosophical fight against communism away from the demagogues and the morons. The fight is too important.

American troops should be indoctrinated in freedom; and, yes, in the evils of communism. They should know what they are defending. And they should know the terrible tyranny and viciousness—the monstrous, crushing oppression of communism. This will make them better Americans and it will certainly make them better soldiers.

But, Mr. President, can we do this by permitting generals to indoctrinate our soldiers with the ridiculous absurdity that Murrow and Lippmann and Sevareid are Communists. What are we trying to do, instruct our troops that they should defend America against Walter Lippmann?

Put yourself in the position of a soldier who is told that he is fighting for a way of life that must eradicate such "pinkos" as former President Truman and Mrs. Roosevelt. What will normal boys do? Oh, a few of them may fall for this nonsense, but most of them have enough commonsense just to laugh at it.

If President Truman and Mrs. Roosevelt are "definitely pink" and Lippmann and Murrow and Sevareid are confirmed Communists as General Walker argues—where does that leave the President of the United States—their own Commander in Chief, John F. Kennedy, who certainly agrees with this constellation of great Americans overwhelmingly on general policy?

Is the general counseling a not very subtle disobedience to the President of the United States? How can we expect to instill into our troops a fighting spirit if their own commanding officer tells them that their Government and their country's institutions are already rotted with communism?

Mr. President, what all this leads up to is that a pitifully misguided general is discrediting the very basis on which his own troops may be called upon to defend freedom.

The laughter of our troops at the stupidity of their commander may be healthy; but it will also be tragic. Be-

percentage, of the defense contracts. I appreciate the Senator's yielding to me for this purpose.

Mr. KEATING. Mr. President, I shall listen with great interest to the remarks of my friend from California, which I hope will be more than what he has said over and over again about the merits of California as a field for procurement. I shall listen to what the Senator has to say even if what he says is a rehash. I hope to be illuminated by some new ideas. I trust that my friend from California will not reiterate the statement that the Senators from New York are seeking to make a WPA out of the Defense Department, because there is nothing further from the truth, and there is no justification for any such charge.

Mr. President, the senior Senator from California [Mr. KUCHEL] in his remarks on the floor the other day spoke of a 32-percent decline in employment in the aircraft industry in his State between 1957 and 1961. That sounds like a serious matter. What the Senator does not mention is that in the missile industry, a good part of which is classified separately from the aircraft industry, there was an increase of 22 percent in employment in California from 1958 to 1959, alone. New York State, on the other hand, showed a decline of 8 percent. Texas, which normally fares quite well in this body and in Government procurement, showed a decline of 14 percent. Alabama showed a decline of 15 percent. Unfortunately, comparable figures were not compiled for the change in missiles employment from 1957 to 1958, and figures are not yet available for the change from 1959 to 1960. However, there is every indication that when the latest figures are released, they will again show whopping increases for California at the expense of the other States.

Several other points in the statement of the senior Senator from California deserve careful attention. First, the Senator rejoices that the Comptroller General has apparently ruled out the possibility of permitting 100 percent set-asides in defense procurement for labor surplus areas in order to alleviate serious conditions of economic dislocation and human distress. This is unlike him, for in most matters he shows a fine and humane understanding of economic problems.

Mr. KUCHEL. Mr. President, will the Senator from New York yield?

Mr. KEATING. I yield.

Mr. KUCHEL. Has the time come when pride in the fact that the law is being applied should subject one to obloquy?

Mr. KEATING. My statement was not intended to subject the Senator to obloquy.

Mr. KUCHEL. I appreciate the Senator's statement.

Mr. KEATING. Let me say that. However, I was distressed to hear the Senator take joy or—I do not want to use the word "exuberate"; it is too strong—express great satisfaction over the fact that the possibility of permitting larger set-asides for labor surplus areas was ruled out.

Mr. KUCHEL. Does the Senator from New York disagree with the ruling?

Mr. KEATING. I feel there should be adequate set-asides in defense procurement for labor surplus areas, in order to alleviate serious conditions of economic dislocation and human distress.

Mr. KUCHEL. Does the Senator disagree with the ruling?

Mr. KEATING. The ruling may be legally correct, but the ruling causes an unfortunate situation.

Mr. KUCHEL. Am I to be denounced for approving a ruling which is legally correct?

Mr. KEATING. The Senator from California is not being denounced. It was being pointed out that the Senator's statement was different from his normal reaction to human distress. The Senator from California usually is most considerate. I felt that there was a note of joy or exuberance, which I regretted, in his reference to the ruling, which may be legally correct but which results in great human suffering.

Mr. KUCHEL. I recall to the Senator from New York that when on this floor he spoke with great eloquence and great conviction about the plight of unemployment among the people of the State of New York, it was this Senator from California who helped him.

Mr. KEATING. That is exactly the point I was making. The senior Senator from California has a great and deep understanding of human needs. The particular statement the Senator made in vigorously supporting defense procurement in his State—and I can understand that—seemed to depart slightly from his great human understanding of the problem.

The vote was close. We appreciate what the Senator from California did. He did it out of the great courage and the depth of understanding which he has.

Mr. KUCHEL. I thank the Senator from New York. I would do that again.

Mr. KEATING. I hope the Senator will. I hope he will be impressed by the arguments which I am about to make.

Mr. KUCHEL. I shall listen to them. When I read the decision of the Comptroller General, which confirmed my own statement on the floor a month previously, all I said was:

I am glad the Comptroller General has so ruled. I am glad it is clear that under the present law, passed by Congress, the Defense Department cannot be converted into an agency responsible for the solution of social problems in our country.

That is what I said, or at any rate, what I wanted to say.

Mr. KEATING. If that was all the Senator meant to imply, then I am certain he was acting with his usual kindness.

Mr. KUCHEL. I will say there was a little bit of glee in what the Senator from California said.

Mr. KEATING. It was the glee that disturbed me. The glee seemed so out of character.

Mr. President, when the distinguished Senator from California denounces S. 1178 and S. 1182, he is indeed building up a strawman and then trying to tear

it down, because the bill which I introduced, S. 1182, and the bill of which I am a cosponsor together with other members of the New York delegation, S. 1178, do not call upon the the Department of Defense to spend more money or to reject a low bid in order to take a higher bid in an area of labor surplus. On the contrary, the set-aside programs, both for areas of labor surplus, and for small business, with which my bill deals, and which I should very much like to see expanded, do not call for the expenditure of additional money. In order to get a certain contract, the company which fulfills the requirements for a set-aside has to meet the lowest bid from a non-set-aside bidder. He does not get more money for the contract; he merely gets an extra opportunity to perform the contract at the lowest competitive rate. This surely is not too much to ask at a time when we are planning to spend one-third of a billion dollars on depressed area legislation.

The Senator from California maintains that defense procurement must not be a WPA program. He says defense contracts are not social planning tools. He says further—

the Department of Defense must have latitude to award contracts in a fashion to bring the greatest return for every penny expended.

He spoke later of "our universal wish to get the most for our money and to make our dollars go as far as possible." That also, I may add, was the gist of the decision of the GAO, to make sure that the Government pays the cheapest price for the equipment which meets its needs and standards. I understand the Senator from Delaware [Mr. WILLIAMS] made the same point in a statement last week.

With those sentiments, Mr. President, I am in full agreement. That is why I am concerned. In fact, Mr. President, in spite of all the talk about lowest bidders and full competition, 87 percent of the value of military prime contracts is not formally advertised for this type of competition. Only 13 percent of defense procurement dollars are actually awarded to the lowest bidder in formally advertised procurement actions. What is more, this percentage has actually declined over the last 4 or 5 years. In the fiscal year 1957, 16 percent of all procurement actions, including intragovernmental, were formally advertised. In 1958, 14 percent were. And in 1959 and 1960, only 13 percent were formally advertised.

About 13 to 20 percent more were negotiated with some degree of competition, although the extent of the competition cannot be fully determined. Furthermore, there is no indication that all competent firms were invited to participate in the negotiations.

So, Mr. President, if we knew that firms in any one State or area had bid openly and competitively for contracts that were formally advertised, and had won 25 percent, then, indeed, there would be very little to complain about. But that is not the case. No, indeed. We do not know that the firms in any one State or area can do the best job

for the least money, because in most of those instances there was no genuine competitive situation to judge by. This makes it a bit like a beauty contest in which only certain girls are invited to compete. The winner may have less to offer the eye than some of the uninvited, but the judges have to decide on the basis of the visual and tape-measure evidence at hand.

I have tried, Mr. President, to obtain statistics in regard to a breakdown, by States, between formally advertised actions and those in which there was only a very small degree of competition or none at all. It is virtually impossible, under present recording systems, to obtain that information. But if we assume that the ratio is fairly equal over the whole country, that would mean that about 87 percent of defense procurement dollars which are channeled into California are not the result of formally advertised actions, but, rather, result from negotiations of one kind or another. Probably at least two-thirds of these are not competitive at all, but are carried out with a single source.

The general rule set forth in the Armed Services Procurement Act of 1947 provides simply and plainly that—

Purchases of and contracts for property and services covered by this chapter shall be made by formal advertising.

However, negotiation, instead of formal advertising, is permitted in 17 different exceptions to the rule; and, in practice, negotiation was used for 87 cents of every dollar spent on defense contracts last year.

That, to me, is a clear case of the tail wagging the dog. It is for this reason, Mr. President—not because I am trying to raise the costs of defense procurement, but, rather, because I am trying to cut down on the costs—that I raise these questions about the imbalance of defense contracts, an imbalance which exists not only in regard to the geographic areas of distribution, but also in regard to the methods of procurement used.

There can be no doubt, Mr. President, that the main purpose of defense procurement must be to find the best and cheapest way to provide the strongest and most effective national defense at the smallest overall cost. Military men and their civilian bosses will have to make the decisions, on military grounds, as to what we need. And certainly I am not urging that we spend a penny more than is militarily justified. But, Mr. President, we simply cannot be blind to the fact that, altogether, \$44 billion is going to be spent on national defense, this year. I believe that the \$25 billion or so that is earmarked for procurement should not be expended with the eyes of the Defense Department closed to certain other considerations which deeply affect overall costs, overall economic stability, and overall geographic and strategic balance. To paraphrase a famous saying; billions for defense, but not one cent for waste.

Many studies, including an excellent one published in January by the Select Committee on Small Business, indicate that economy in defense procurement can be achieved through greater com-

petition. I admit that more administrative time and trouble might be required, but the overall result would undoubtedly be more competition and lower prices for defense hardware. The outstanding area where savings could be established is spare parts replacement, but I am sure other areas could also be uncovered if a serious attempt were made. More competition, I repeat, would eventually lead to lower, not higher, defense costs, and it would not impair our defense efficiency or our national security.

Second. We must not forget that the real strength behind our military equipment lies in the economic and industrial strength of the country as a whole. Over the long run, this is indisputable; and it is the long run which we must keep in mind. Therefore, I believe that defense procurement should be widely distributed, in contracts with responsible and capable companies all over the Nation, with an intelligent view to overall economic factors. We must not have economic muscles of steel in one area, and muscles of jelly in another. I believe that the Department of Defense, as well as every other branch of the Government, has an obligation to consider areas of major economic dislocation, because they are areas of weakness for the whole country. They create national problems that should be kept in mind by all, not by only one of the agencies of the National Government. Both my own bill, S. 1182, and the bill of which I am a cosponsor, S. 1178, would strengthen the obligation upon the agents of the Government to keep in mind the economic and geographic balance of the country, and particularly the plight of depressed areas.

I also propose that there be formed within the Business Advisory Council a special subcommittee to consider particularly the problems of increasing defense procurement in depressed areas. The Business Advisory Council, like the Area Redevelopment Administration to be set up under S. 1, is an adjunct of the Department of Commerce which rightly has a major concern with the overall economic health of the Nation. The Secretary of Commerce is its new ex officio general chairman. It is being expanded, to include a larger representation of small business. It should also invite representatives of industries in labor surplus areas, so that all these groups together can survey the needs of labor surplus areas and can determine how defense buying in those areas can be increased—without, let me add, altering the basic criterion that the low bidder should get the job.

Fourth. I believe that more information about the whole process of defense procurement should be made more readily available. Although my requests have always received careful and courteous attention from the Department of Defense, under existing circumstances it is difficult for the Department to provide full breakdowns, by States, of defense contracts. It is even more difficult to obtain a breakdown, by States, in regard to the extent of sole source negotiations, without any competition at all, that occur under each of the exceptions in the procurement law. In the justifica-

tions that are given for the use of negotiations, rather than formal advertising, it is difficult to determine the real reasons, lurking behind the brief and formal language used, for the avoidance of a fully competitive and formally advertised proceeding. In favor open contracts openly arrived at, within the framework of national security consideration; and I recognize the great importance of the national security.

Finally, there is a very important field of defense work that is virtually entirely outside of public knowledge. It is the field of subcontracting. The Department of Defense keeps only perfunctory records in regard to this field, which may amount to over half of the actual value of many procurement actions. The hidden ball trick is all right in football, but in the case of Government contracts, involving billions, we should know who is carrying the ball, and who is taking the handoff, if there is one. Terms of subcontracting are varied, and in certain cases offer definite handicaps to smaller firms. A careful study needs to be made of this whole problem, not only as it relates to small business, but also as it relates to the whole procurement process. Patent and other proprietary rights are involved in the problem. More information in these areas would be useful to a better public understanding of the complex procedures of defense contracts.

I am hopeful, Mr. President, that these needs can be met, and that the Defense Establishment, as well as the overall economic standing of the country, can be rendered stronger and more efficient through a more equitable and more competitive distribution of contracts.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TUESDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate concludes its deliberations today it stand in adjournment to meet at 10 o'clock a.m., Tuesday next.

The VICE PRESIDENT. Without objection, it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service, and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

The VICE PRESIDENT. The question is on agreeing to the Dirksen amendment in the nature of a substitute for the committee amendment, as amended.

Mr. DIRKSEN. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, after consultation with the distinguished minority leader [Mr. DIRKSEN], the distinguished Senator from Arizona [Mr. GOLDWATER], the distinguished senior Senator from Florida [Mr. HOLLAND], and the chairman of the subcommittee [Mr. McNAMARA], on the bill now under discussion, I send to the desk, and ask consideration of, a unanimous-consent request.

The VICE PRESIDENT. The clerk will read the proposed unanimous-consent agreement.

The Chief Clerk read as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That, effective on Tuesday, April 18, 1961, at the conclusion of routine morning business, during the further consideration of the bill H.R. 3935, the Fair Labor Standards Amendments of 1961, debate on any amendment, motion, or appeal, except a motion to lay on the table, shall be limited to 1 hour, to be equally divided and controlled by the mover of any such amendment or motion and the majority leader: *Provided*, That in the event the majority leader is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or some Senator designated by him; *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the majority and minority leaders: *Provided*, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

The VICE PRESIDENT. Is there objection to the proposed unanimous-consent agreement?

Mr. JAVITS. Mr. President, reserving the right to object, may we ask the Senator whether this agreement will take care of any amendment, even though it may not be on the desk, or which may be newly submitted?

Mr. MANSFIELD. Yes, indeed.

Mr. JAVITS. I thank the Senator.

Mr. HOLLAND. Mr. President, reserving the right to object—and I shall not object, of course—I would like to ascertain what the intention of the leadership is with reference to the remainder of today, and Monday also, if he cares to discuss that.

Mr. MANSFIELD. In response to the question raised by the senior Senator from Florida, it is the intention of the leadership to remain in session to a reasonable hour tonight—6 or 7 o'clock—and to dispose of what amendments we can. The Cooper amendment, I think, will be before us shortly. We hope also to consider shortly the Dirksen substitute, the so-called Kitchin-Ayres bill, and certain amendments which will be offered, I understand, by the distinguished Senator from Arizona [Mr. GOLDWATER] and by other Senators.

It is the intention then—and this has been brought to the attention of the

minority leader, and he concurs—to go over from tonight until Tuesday morning at 10 o'clock, and on Tuesday to remain in session rather late, if need be, to try to finish consideration of the bill that day.

Mr. HOLLAND. Mr. President, I thank the majority leader. At the time we were having our initial discussion I understood it was the intention of the leadership to meet Monday and to continue to try to dispose of the less important amendments; that is, the amendments not in the nature of a substitute or which do not relate to vital matters in the bill. As I now understand, there has been a change in that plan.

Mr. MANSFIELD. Yes. I must apologize, because I thought I had discussed the subject with the Senator from Florida. I recall what the Senator said. The Senator is correct. There has been this change. I hope the Senator will agree to what we have asked.

I point out that we will try to get as much accomplished this afternoon in the way of action on amendments as possible.

Mr. HOLLAND. I thank the majority leader. I shall not object.

Mr. DIRKSEN. Mr. President, I am of the opinion this is a perfectly fair and equitable agreement, and I am glad it was submitted.

The VICE PRESIDENT. The question is on agreeing to the proposed unanimous consent order. Is there objection? The Chair hears none, and the unanimous consent agreement is entered.

Mr. MANSFIELD. I thank the Senator from New York.

Mr. BENNETT. Mr. President—

The PRESIDING OFFICER (Mr. METCALF in the chair). The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I should like to discuss briefly the bill which the Senate is presently considering, the so-called minimum wage bill. It seems to me that the Senate Committee on Labor and Public Welfare, in reporting its version of the minimum wage bill Wednesday, has struck a devastating blow against our traditional concept of interstate commerce, and has threatened the jobs of many of our marginal workers.

At a time when the administration is supposedly concerned with the unemployment problem, I find it difficult to understand why it would back a bill such as this one, which is going to force many small companies, operating on a thin margin of profit, to reduce their work force. And to do this in the name of helping those workers is to add insult to injury.

If this bill passes, who will be hurt? First, the elderly, trying to supplement social security or other income by low-paying jobs.

Second, the handicapped, and the less efficient workers, who are the first to go when a reduction in work force becomes necessary.

Third, students and other part-time workers.

And, fourth, all other low-income workers whose services may be marginal,

and whose labor is not absolutely essential to operation of the business.

But the worker is not the only one who can be injured. The business enterprise itself—especially if it is a relatively small one—can be hurt. Although the administration has posed as a friend of small business, this bill is aimed primarily at the small businessman, as I shall explain later. Under current law, most large operations come under the Fair Labor Standards Act. This bill moves to bring in the smaller retail operators, and marks the beginning of a trend which ultimately will bring in all small retail operations, which will be a serious blow—in some cases a fatal blow—to many small businesses.

The mail I have received from operators of businesses in my State indicates that the great increase in coverage provided by this bill is going to force many of these businessmen to cut their payrolls, or to go out of business. In any case, the person who suffers most is the man this bill is supposedly intended to help—the low-income employee.

I have no quarrel with the concept of a minimum wage law. Indeed, I have supported moderate increases in the minimum wage in the past. The original act had as its objective the elimination of labor conditions "detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers." This is a worthy goal. But the bill before us, although tied to that policy statement, will not accomplish its goal, and in the attempt to do so will threaten to destroy the freedom and the productive resiliency of our society.

Let me emphasize that I have no personal stake in opposing this bill. In the businesses with which I am connected in my home State, the lowest wages are considerably above the \$1.25 proposed minimum. My objections are based solely upon my concern about the effect this bill will have on the economy, and more particularly on our traditional constitutional checks on Federal power.

A FOOT IN THE DOOR IN DESTROYING THE INTER-STATE COMMERCE TEST

Mr. President, I think the bill represents a foot in the door in destroying the interstate commerce test. Perhaps it is the last foot in the door.

My concern relates to our Federal-State relationships as established by the Constitution. Article X of the Constitution states that—

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

This bill is another move in a diversified program whose objective seems to be to destroy the power of the States and to concentrate power in the Federal Government. This sounds like an old story, but it is a very real one, and this proposal contributes to it very specifically. For many generations, we have recognized the difference between interstate and intrastate commerce and limited the activity of the Federal Government to the regulation of those businesses which were obviously interstate in nature. For this reason, I am shocked at the state-

ments of some Members of Congress to the effect that our traditional tests of interstate commerce really do not matter. As an example of this indifferent and dangerous attitude, I quote from the House debate on the Ayres-Kitchin substitute, recorded on page 4404 of the CONGRESSIONAL RECORD for March 23, 1961. In that debate a Utah Representative said:

The issue is not whether retailers are or are not in interstate commerce. One glance at the products on the shelves of the typical store should make everyone thoroughly aware that retailers distribute products coming from all parts of the country, and that they are therefore clearly in the stream of interstate commerce.

It does not make any difference whether the retail company runs 3 stores or 10 stores—

Or, I interpolate myself, one store— or whether it runs them all in one State, or has them spread over several States. If it sells interstate products, it is a part of interstate commerce regardless of the location or number of its stores.

The issue, I repeat, is not whether these businesses are in commerce, but simply whether we choose to exercise our authority to cover them.

The last comment in the quotation, I have underlined.

This same Representative then steps back from his implied position that any business is fair game for Federal regulation by giving it as his belief "that even the corner grocer is technically in interstate commerce, but I draw the line at extending our authority to such locally oriented merchants."

I add my own interpolation, "at this time," because if we can assume that the corner grocer is engaged in interstate commerce then it is only a question of time and the whim of the Congress as to when he may be brought under the act.

My question is, How long will the corner grocer remain outside of the arm of Federal regulation if we take this first major step to destroy the traditional test of interstate commerce? The proponents of the McNamara bill approach are using a very subtle means to pave the way for Federal wage regulation of all businesses, large or small, interstate and intrastate.

This bill, by the simple device of using dollar ceilings to determine coverage, completely destroys the old concept of interstate commerce. Some industries will get exemption under this bill, but if the bill itself is adopted and the new principle of size rather than type of service is validated, then it will only be a question of time until the curtain will come down on the idea that there is any intrastate business. Everybody, regardless of size, will be under the domination of Federal regulations. It is that simple and that serious.

The present criterion for determining interstate employment is a direct one. It is based strictly on the activity of an individual employee, and if that individual employee is not producing goods or directly handling or transporting goods in interstate commerce, he does not come under the law. In the case of a wholesaler, some workers may be covered and some may not. It de-

pends on whether they are handling the goods before they have come to rest. In the case of a clerk in a retail store checking out a customer or handling a sale in any way, there is absolutely no foundation for coverage under our current interstate criteria. The goods had come to rest by that time and were being sold within the State on a strictly intrastate basis.

I thought the comment made in an editorial in yesterday morning's Washington Post and Times Herald was significant. The Post said:

Much of the opposition in the Senate is directed against the sweeping language of the bill which seems to assert a potential policy of covering any retail or service employee who handles any item that has at any time moved across a State line.

The Post recognizes this distinct departure from the traditional interstate test by using the dollar sale test.

Once the interstate test is put on a dollar sales basis, though the current minimum proposed in the bill is relatively high, it will be a simple matter to gradually reduce that minimum to near zero, thus covering all of business.

In other words, this is a dangerous step, and as time goes on, we in the Senate can expect that this bill will be treated as we have treated many others. We would feel the need for a modification and feel the need to give benefits to more people.

I have been in the Senate long enough to know that once we establish a pattern, the pressure is constantly on this body to continue to reduce the limits. We get on the treadmill, and we cannot get off. There will be constant pressure for added benefits. And if we adopt the dollar sales criterion as the basis for determining coverage under the minimum wage law, we shall go through our normal process and keep reducing the dollar sales limits, and thus completely interject the Federal Government into the private wage setting policies of all American business.

Placing under Federal control thousands of small business establishments which are primarily local in character would be a serious and unfortunate change in our traditional Federal-State system of Government, and this worries me.

THE BILL HURTS THOSE IT IS INTENDED TO HELP

My second point is that many small businesses, not previously covered, are going to find it difficult to meet the minimum wage, and many of those previously covered will find it economically impossible or inadvisable to pay the substantial increases suggested in the McNamara bill. The result will be either that they will be forced to cut marginal producers out of their labor force, or they may be compelled to go out of business. Either way, the result is unemployment. And the unemployment will affect the very same people this bill is supposed to help—those with the lowest earning capacity—the elderly, the unskilled, the handicapped, and students.

Even if the rate of minimum wage increases were no greater than the rate of productivity increases, this is still no

justification for the McNamara bill. I cannot subscribe to the theory that all of our increases in productivity should go to the workers themselves. Actually, a businessman must keep five different groups happy: First, the buyers of his product; second, his employees; third, his stockholders; fourth, the demand of his suppliers for adequate payment for materials and supplies; and, fifth, the demands of Government, which considers a business something to be taxed and regulated. He must somehow strike a balance that will satisfy all five groups. If he fails to satisfy even one of the five, he is eventually out of business.

Those who desire to give all of our productivity increases to labor are doing so at the expense of these other groups. I am particularly concerned about the consumer, who has every right to a real share of the gains in productivity; and the only way the consumer can get them is through lower prices. In fact, in my opinion, this should have some priority. Also neglected in this concept are those who furnish the capital, which is at the very foundation of our technological progress, and with it the source of productivity itself. If we fail to provide the investment incentives necessary to furnish the investment funds, we may find all groups, including the workingman, hurt by a lower rate of productivity.

Even assuming that all of the productivity increase should go to the worker, it should be remembered that productivity figures are averages and do not reflect the variations in individual companies, let alone the variations among workers. It is most likely that the marginal workers, who are receiving low wages, have a productivity which is well below the average.

There is no doubt that a wage increase can be justified for those workers who are producing increased output each year, but any arbitrary increase in the minimum wage law which will force up, by legislation, the wages of some workers who do not contribute a great deal of increased productivity will do great harm. It can cause such serious complications that the result will be to force a businessman to either cut down his labor force or to go out of business.

The consequences would be most harsh on whole families dependent on the added dollars that working wives and younger members bring in. Students would be deprived of needed experience if they happen to be employed in an occupation ordinarily handled by full-time employees—even though no full-time workers wanted the job. Older persons who work only to keep occupied or to supplement their income would be deprived of opportunities.

In this connection, consider a statement in the Secretary of Labor's report of February 15, 1960, on the Fair Labor Standards Act. Commenting on the effects of the 1955 minimum wage increase to \$1, the report states on page 1, part II:

During the period of adjustment to the higher minimum, there were significant declines in employment in most of the low-wage industry segments studied.

Thus, an apparently altruistic policy of forcing up low-level wages may, in fact, force those low-wage earners completely out of a job.

In light of the above statement, it is significant to observe that in the three postwar recessions of 1949, 1954, and 1958, after unemployment had risen to its recession peaks, it failed in every instance in the recovery years to return to its prerecession level.

In other words, the base core of unemployment has continued to rise through three recessions and three booms. It would be interesting to know how much of this persistent cyclical rise in unemployment was due to postwar expansion of our minimum wage laws which, if mishandled, can be a cause of unemployment.

INFLATIONARY IMPACT OF THE BILL

My third concern is with the inflationary effects of artificially forcing up certain wages, with the result that other wage negotiations would be affected. When the minimum wage is forced up, it can have one or both of two effects: First, it will force an increase in all wages at levels below the new minimum, both for those covered by the present minimum and those newly covered. Second, it will have the effect of raising wages at every level, under the reasoning that historic differences must be preserved.

Consider, for example, the case of a skilled mechanic, earning \$4 an hour, who observes that the Federal Government has forced a janitor's wages up 25 percent from \$1 to \$1.25 per hour. If he does not demand a 25-percent wage increase, which in his case would be \$1, he at least will demand a 25-cent increase.

Thus, we have a situation whereby wage rates in the economy are tied to someone else's minimum wage, rather than to the productivity of the individual worker. The result is that instead of a minimum wage floor, we have provided an elevator on which not just the newly covered, but all other employees will take a ride into the clouds of inflation.

This is exactly what happened in 1949, when the minimum wage was increased to 75 cents. A Department of Labor study released last year showed that wage differentials were almost completely restored. Undoubtedly this was a factor in the inflation which occurred during the years immediately following.

And with respect to the 1956 minimum wage increase, a Labor Department report showed that although there were exceptions, the general tendency was for wage differentials to be narrowed as an immediate effect of the minimum wage, but to be wholly or partially restored subsequently.

It is generally agreed that a minimum wage law is supposed to be a floor through which wages should not be allowed to drop, a device to relieve or prevent a distress situation. The McNamara bill, reported by the committee, is a dangerous departure from this concept. It attempts to solve our economic welfare needs through a minimum wage law which becomes nothing more than an

attempt to pull oneself up by his bootstraps. Congress, unfortunately, can not abolish poverty by such a law. It may strike at symptoms but it does not go to its roots.

So we can see that the bill is economically unsound. And, to return to my first point, it is constitutionally unsound. It is another step in the attempt to federalize American life. It comes on the heels of other measures which Congress has considered, and will consider, which likewise play a role in this overall apparent program of the Kennedy administration. As examples of this policy, the depressed areas bill represents an attempt to interject the Federal Government into the business of locating industry, with a threat to eventually nationalizing industry. The temporary unemployment compensation bill is a direct maneuver to relieve the States of their rightful responsibility to handle this program, and to centralize it in Washington. We have learned so often in the past that what we thought was temporary very soon became permanent.

Last year we enacted a medical care bill which left responsibility for the elderly with the States, but this year our liberal friends are trying to establish a Federal program which bypasses the States. We are all aware of the proposal for Federal aid to education, whose supporters claim that it will leave control over our schools with the local governments, but in my opinion this is only a temporary assurance, and the inevitable steps will follow whereby the Federal Government will exercise an increasing measure of control over our local schools.

The administration's minimum wage bill, extending Federal control over countless businesses which previously were considered strictly intrastate businesses is one step in this process. I realize that in the bill before us there are a number of exceptions for particular industries. I am sure the representatives of those industries are breathing easier today than they did last year when the bill was before us, in which bill they had been included. I hope none of them feel that they are safe from here on out, because it is my opinion that these exceptions were made to keep the pressure of these industries off the bill, and that once we establish the dollar ceiling as the basis for including businesses or industries in the Federal wage-hour program, these industries which escape this year can expect to be brought in next year or the year after.

Mr. President, I have tried to give the Senate my reasons why I believe the proposed legislation should be defeated. They all sum up to the fact that I believe it will injure many of those whom the bill is intended to help. Therefore I hope the bill will be rejected.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. BENNETT. I yield to the Senator from Ohio.

Mr. LAUSCHE. It is my recollection that in last year's bill hotels, motels, and restaurants were specifically covered.

Mr. BENNETT. That is correct.

Mr. LAUSCHE. Later they were excluded.

Mr. BENNETT. That is correct.

Mr. LAUSCHE. This year the Statler, Hilton, Sheraton, Pick, and other hotels, in spite of operating in many States, are not covered by the bill before us.

Mr. BENNETT. That is correct.

Mr. LAUSCHE. National restaurants also are excluded.

Mr. BENNETT. Well, all restaurants are excluded regardless of how they operate.

Mr. LAUSCHE. Yes. Specifically, the fact that they operate nationally becomes even more significant.

Mr. BENNETT. Yes.

Mr. LAUSCHE. Am I correct in my understanding that last year the Monroney amendment contemplated changing the definition of interstate commerce as comprehended in the bill last year, and that the Monroney amendment was about to be carried on the basis of a previous nose count, but that then there was a great deal of scurrying on the Senate floor, and finally a vote was had on the Monroney amendment; furthermore, that, prior to the vote being had on the Monroney amendment, questions were asked on the floor of the Senate whether it was a fact that if the Monroney amendment was defeated the hotels and motels and restaurants would be exempted? Does the Senator recall that situation?

Mr. BENNETT. Yes; I do recall it. There was tremendous pressure to defeat the Monroney amendment. Inasmuch as the Senator from Utah is engaged in the retail automobile business, I recall very clearly that one of the industries that escaped in this process was the retail automobile business.

We were in the process last year of trying to adopt other substantial amendments to the bill on the floor of the Senate, and there was a great deal of discussion, and much telephone communication with representatives of some of the industries, because it became obvious that pressure was put against the Monroney amendment, and later those businesses were excluded from the bill. This time they are left out of it to start with.

Mr. LAUSCHE. It is my recollection that the Monroney amendment was defeated by two votes and that after it was defeated the hotels, motels, restaurants, automobile dealers, and farm implement dealers, also, were exempted.

Mr. BENNETT. That is correct.

Mr. LAUSCHE. It was admitted by the opponents of the Monroney amendment that in order to get it defeated and get the bill passed it was necessary to make this compromise, to exclude the industries which I have just mentioned.

Mr. BENNETT. The Senator from Oklahoma [Mr. MONRONEY] has another amendment which I understand he will offer to the pending bill. We are talking about the same conflict in principle. The amendment adopts, in a modified way, the concept that whether a company actually does business across State lines would determine its coverage, and not the volume of the business it may do.

Mr. LAUSCHE. I should like to ask the Senator from Utah what, in his opinion, was the motivation in not cov-

ering the hotels and motels and restaurants, which, by every concept of interstate commerce, are engaged in interstate commerce?

Mr. BENNETT. It is the impression of the Senator from Utah that last fall the proponents of the change in the wage hour law were anxious to get a bill passed. They wanted so much of a bill as they could get. They were particularly anxious to preserve the concept of a dollar ceiling as the basis for inclusion in the bill, and they were willing to make compromises like this in order to relieve the pressure against their proposal.

We did pass a bill, but it failed of enactment for lack of agreement in conference with the House. The Senate approved the dollar ceiling concept, which is one of the things that disturbs the Senator from Utah.

Mr. LAUSCHE. Did I understand the Senator from Utah to say that those businesses, hotels, motels and restaurants, while they have been excluded this year, to prevent them from opposing the bill, next year or the following year will be brought in under the act, if past experience will apply to future action?

Mr. BENNETT. That is my impression. If a dollar ceiling is established, then pressure will arise, perhaps from people who are now included under the bill, who will say, "If you plan to include us and make us subject to the law, then the employees of hotels and motels who do business across State lines certainly should be included."

Another factor, as I tried to explain it in my prepared text, is that if we pass a bill such as the one now pending, then we shall constantly be under pressure to broaden it and liberalize it, so as to bring more people under it. The function of the bill is not merely to raise the floor under wages; it is also to bring under coverage 4 million more people. There are still millions of people who work in hotels, motels, restaurants and other businesses who are outside the coverage. I feel reasonably certain that the proponents of the bill would have seen to it that they were included in the bill if they had felt that they could get them covered; but as a matter of strategy, the thing to do is to establish the principle, to build the trap, and then next year or the year after those people can be brought under coverage. It is that simple.

Mr. LAUSCHE. Mr. President, will the Senator from Utah further yield?

Mr. BENNETT. I yield.

Mr. LAUSCHE. Last year I was an active participant in the debate on the Monroney amendment. I think the RECORD will disclose that I asked certain Senators certain questions as to what would happen if the Monroney amendment were rejected.

One question, in substance, was: Is it true that if the Monroney amendment shall be rejected, an agreement has been reached that the hotels, motels, automobile dealers, and restaurants will be exempt? After some quibbling, the answer was "Yes."

A second question was: Under what reasoning can the Statler, the Hilton, the Sheraton, and the Pick hotel chains, which do business in practically every

State in the Union, amounting probably to \$50 million or \$75 million a year, be excluded, while the little hardware dealer in Circleville, Ohio, who operates a small business in that rustic village within the State, and not across State boundaries, is covered?

It was difficult to answer that question, but an examination of the RECORD will disclose that to remove the opposition of those segments of industry—I think there were five segments—a promise was made: Defeat the Monroney amendment, and those groups will be exempt. Thus the big were exempt; the little were to have the harness placed on their shoulders.

Mr. BENNETT. A poem, the exact words of which I cannot remember, describes the magic net which always catches the little fish but lets the big one through. That is the kind of net the proponents of this bill are fashioning.

The Senator from Utah did not have the opportunity to engage in the debate on the Monroney amendment, but he can remember very definitely that during the debate he received telephone calls from friends who were in the motel, hotel, and restaurant business. Up to that time they had been saying, "Defeat the bill if you can." Then they called me and said, "Defeat the Monroney amendment, because we will be all right if it is defeated."

Mr. LAUSCHE. I thank the Senator from Utah.

Mr. BENNETT. I thank the Senator from Ohio.

Mr. President, I am happy to yield the floor.

TERMINATION OF SPECIAL TAX TREATMENT NOW ACCORDED CERTAIN EMPLOYEE STOCK OPTIONS

Mr. GORE. Mr. President, the tax advantages associated with the restricted stock option privilege have led to numerous abuses. These abuses must be halted, and this glaring loophole closed. I introduce for appropriate reference a bill to terminate the granting of restricted stock options.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 1625) to amend the Internal Revenue Code of 1954, so as to terminate the special tax treatment now accorded certain employee stock options, introduced by Mr. GORE, was received, read twice by its title, and referred to the Committee on Finance.

Mr. GORE. Mr. President, in my opinion, there never was any justification for the restricted stock option. Now that we have watched it in operation for 10 years, it has clearly become a particular gimmick of tax favoritism.

In the case of the ordinary corporation, there is no provision whatsoever for any regulatory review of stock option plans. The blue sky is the limit. Many boards of directors have voted themselves unconscionable benefits at the expense of their stockholders, their ordinary employees, and the taxpaying public.

It is distressing to me that none of our government agencies even have the facts and figures on the overall effect of these stock option plans. Neither the SEC nor the Treasury has any statistics which one might study to determine the extent of the abuses which have been allowed under such restricted stock option plans as have been in operation since 1950. I say this not in criticism of any particular officials of these agencies, although it does seem that alert Treasury officials would at least have compiled statistics on revenue loss occasioned by the use of restricted stock options. As a matter of fact, the fault lies primarily with Congress, and it is up to Congress to put a stop to these abuses by appropriate legislation.

In my view, the restricted stock option, in its entirety, is without merit and ought to be abolished. There is some justification for stock options of the unrestricted type, and there are legitimate uses for options of this type. The restricted stock option, however, is merely a vehicle for converting what is in fact, and what should be in law, ordinary income into a type of income which can be treated for tax purposes as a capital gain. It is this favorable tax treatment at which the bill I have introduced is aimed.

Here is how the restricted stock option works: A corporation executive who is paid a large salary, and who is, therefore, in a relatively high income tax bracket, may wish to reduce his overall, effective tax rate while at the same time obtaining increased compensation. The executive persuades the board of directors to set up a generous stock-option plan conforming to the statute, section 421 of the Internal Revenue Code, so that he can get the reduced tax treatment afforded the profits realized from the restricted stock option. It may not be very difficult to persuade the board of directors to do this, since many of them will also be officers of the corporation and will be eligible for the same generous treatment. The stockholders sometimes go through the motions of approval by proxy, although this may not be required.

The option price must generally be within 95 percent of the market value of the stock at the time the option is granted. After the market price of the stock has gone up, the option may be exercised. If the price does not increase, the option need not be exercised. Thus the holder of a stock option gets a so-called free ride. All that then remains to be done is to hold the stock for 6 months so that the profit realized on the sale of the stock can receive the long-term capital gains treatment. The final sale of the stock must also be 2 years or more after the option has been granted. It may be held for many years without being exercised. Then when exercised, though it is then that the profit is really realized, no tax is due under the present law until the stock is actually sold. If held 6 months, the profit thereon is taxed at capital gains rates.

The advantage which the restricted stock option gives is twofold. In the first place, no tax accrues upon the exercise of the option. Ordinarily, when

one exercises an option, he realizes a gain of some sort. If this were not so, he would not exercise the option. The gain, in the case of a stock option, is actually the difference between the price set out in the option and the market price of the stock when the option is exercised. If the option was granted in connection with employment, it is a part of the employee's compensation, and any gain should be taxed at ordinary income rates at the time when the option is exercised. As I have said, this is not the case under present law.

In the second place, with the restricted stock option, when the gain is finally realized in cash upon the sale of the stock, the capital gains tax applies, even though the option was actually granted in the first place as compensation and was intended as compensation.

One might well ask how such an obviously inequitable provision as this became law.

The present law regarding restricted stock options is found in section 421 of the Internal Revenue Code of 1954, but this section was first enacted in the Revenue Act of 1950. Prior to that time, there had been various types of stock-option plans; but the Supreme Court had held, in 1945, in the *Smith* case, that, where such options constituted compensation, the difference between the option price and the market value of the stock at the time when the option was exercised was income, and was taxable at ordinary income rates.

As I see it, the decision of the Supreme Court was a correct one, but it did not satisfy many interests. Various special-interest groups shortly thereafter began trying to obtain the enactment of legislation to overrule the Supreme Court, and finally succeeded in 1950. This well defined and consciously created loophole has been with us ever since. Of course, the famous so-called tax reform bill of 1954 made this loophole, as well as many others, even larger.

It did not take the large corporations long, after the enactment of the 1950 plan, to get underway with plans for the benefit of their executives. By January 1951, in fact, United States Steel's board of directors had approved an option plan for the benefit of 300 of their key management employees. How could such a bonus to management employees be fairly considered as other than compensation?

By June, according to a New York Times survey, 83 major corporations had adopted stock-option plans, including the following:

	Number of shares	Number of eligible employees
U.S. Steel.....	1,300,000	300
Sinclair Oil.....	598,700	200
Sears, Roebuck.....	500,000	40,000
American Airlines.....	500,000	30
Pittsburgh Plate Glass.....	450,000	4,000
Gulf Oil.....	400,000	95
Standard Oil (New Jersey).....	300,000	125
Republic Steel.....	300,000	75
Union Oil of California.....	300,000	30
Bond Stores.....	300,000	695
Celohese.....	300,000	45
Jones & Laughlin.....	300,000	100
Loew's.....	250,000	6
Allegheny Corp.....	250,000	10
St. Regis Paper.....	250,000	100
United Paramount.....	250,000	50

This movement spread rapidly, and it was estimated that within a few years one-half to two-thirds of our major corporations had stock-option plans for favored groups of employees, mainly officers and more highly compensated management employees.

Most of the arguments advanced by spokesmen for the large corporations in favor of the restricted stock option boil down to one. It is said that generous stock-option plans, or similar tax subterfuges, are necessary to attract and hold capable executive talent. This represents poor logic, indeed, for if no corporation could offer restricted stock options, all would start from the same mark in the race to attract capable employees. Moreover, Mr. President, if we accept that argument, then the restricted stock option must in fact be compensation.

As I view the matter, a virile and vital organization, be it a corporation, a church, a civic club, a Government agency, will attract capable men and will develop its own effective leadership without special gimmicks.

As for holding capable executives, once they have been developed, here again, if all corporations are in the same position vis-a-vis restricted stock options, no established company can, by using this bait successfully raid another established company for trained executive talent. Conversely, when one group of corporations gives its management employees restricted stock options, others may find it necessary to do likewise.

It may well be that if no corporation is able to offer restricted stock options, some capable men will leave established corporations, and will start new companies of their own. But what would be wrong with that? It would be a most healthy development, and the whole society would benefit from it.

Several things can be said against the restricted stock option.

First. As I have already pointed out, it serves as a device to lower the effective tax rate on the compensation of corporate executives. Therefore, it is a favoritism in our tax law—a favoritism for the benefit of those who, from a comparative income standpoint, need it least. This results in a loss of revenue in sizable amounts to the Government. It has been estimated that this loss in revenue runs as high as \$100 million a year. I believe that to be a most conservative estimate. A careful investigation might well show the loss of revenue to the Government to be greatly in excess of that amount.

Second. The granting of these options in large amounts serves to water the stock in the hands of all stockholders, since the company receives less than the stock is worth when the option is exercised. The value of each share of stock in the hands of legitimate purchasers is lessened with the award of each option to an insider.

Third. This practice serves to discourage the vigorous growth of new and smaller companies which might pose a challenge to the Big Three's and Big Four's of so many industry groups. To the extent that corporations do hold their executives by means of stock options, management does not tend to pull

out of large and well-established concerns and set up competing companies. This, then, serves directly to encourage oligopolies and monopolistic practices.

I am not alone in voicing opposition to the restricted stock option. Many a stockholder has raised his voice against it.

Mr. J. A. Livingston, an economic analyst and syndicated columnist, has written a number of columns on the subject. He has set out instances of abuse in numerous companies.

Mr. Livingston has also gone into this subject in his excellent book, "The American Stockholder," published in 1958. I commend this book to all interested in such matters, particularly to stockholders of large corporations who might wish to understand more about the next proxy statement they receive.

One of the best short wrap-ups on the subject is an article which appeared in U.S. News & World Report on May 11, 1959. That article is headed "Where Fortunes Are Being Made Again."

I ask unanimous consent that the excerpt may be printed at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The following is an actual example from the records of one of the Nation's largest manufacturers:

"In January 1953, this company offered key executives a large amount of stock at a price of \$315 per share, the market value of the stock at that time. One vice president received the right to buy 4,000 shares at this price at intervals until 1963. In the first 3 years, he bought 1,200 shares.

"Then in January 1956 the stock was split 15 for 1, and the option price was adjusted accordingly to \$21 per share. By that time, the split stock commanded a price of more than \$60 per share.

"In the next 2 years, the vice president bought 6,000 shares of split stock at \$21. Then, when stocks were depressed in the summer of 1958, he sold 6,000 for \$42 per share. His profit on these stocks came to \$126,000. On this, he paid a capital gains tax of 25 percent, leaving a profit after tax of \$94,500. He still had 18,000 shares purchased at \$21.

"In February, 1959, the market price of the stock had moved back up to \$54. The vice president again became a buyer to the tune of 12,000 shares at \$21.

"At last report, this official held 30,000 shares for which he had paid \$630,000. Their value on today's market, where the company stock has gone still higher, is nearly \$2 million. If the vice president sells his holdings 4 months from now and if the market price of the stock does not change in the meantime, he will have a profit, after taxes, of nearly \$1.1 million, counting the \$94,500 cleared earlier."

Mr. GORE. The most flagrant abuses have been reported in connection with restricted stock options. In 1958, in particular, there were reportedly instances where company officials adjusted option prices downward to keep pace with the then falling stock market.

One of the most widely publicized of these 1958 abuses occurred in the case of Alcoa. Mr. Livingston, in his column published in the Washington Post on April 4, 1958, and referred to above, outlined that manipulation.

This sort of sharp practice may be symptomatic of our times. But it brings into question the entire role of the cor-

poration in American life, business, and society, and particularly the question of corporate control. The corporation today is of paramount importance to our economic existence, and yet in many instances it has gotten completely out of the hands of its owners, and is under the control of a small group of managers who are not effectively accountable to anyone.

Who really controls the corporation, and who, in turn, is served by the corporation? These are serious questions involving the national interest. Willful men, in their reckless scramble for personal power and fortune, prestige, and pecuniary benefits are using our great corporations for their own advantage, forsaking the national good, the general public, and even the actual owners of the corporation, its stockholders.

One wonders if the large amounts of stock options held by General Electric and Westinghouse executives might have motivated some of them to act in a more extraordinary way in entering into collusive agreements to fix prices, thus violating the law of the land and doing, as yet unmeasured, damage to their customers.

There are no figures available, as I have said, to show how much revenue the Government is losing through restricted stock options. I lack the staff to make an extensive analysis, but I have examined some of the monthly reports of the SEC showing transactions of officers and directors with respect to their own company's stock, and some of the information contained in these reports is truly amazing.

The report issued in February 1961, the latest available, lists 238 separate purchases of stock under options by officers and directors of corporations listed on the major exchanges.

This will give us some index to the widespread practice of tax favoritism. During the past 5 months almost 1,000 transactions were reported involving more than 300 separate companies.

Picking some companies at random, I note that 44,672 shares of General Electric stock were purchased under option by 17 different officers and directors of that company, according to the SEC reports for the past 5 months only. I do not know the value of the options held by these corporate officials, but General Electric stock recently was selling for about \$68. In 1958 it sold for \$57. If the option price was 95 percent of the 1958 price, the profit from these purchases amounts to \$618,700.

Six officers and directors of Westinghouse bought 22,960 shares of that company's stock under option during the same period. This represents a possible profit from the exercise of these options of \$248,000.

Procter & Gamble officials purchased 45,400 shares during the last 5 months, including a purchase of 15,000 shares in January 1961 by Mr. McElroy, an erstwhile official of our Government. I do not know the date of Mr. McElroy's option, or the option price, but if the price is near the 1958 low, this one transaction would represent compensation to Mr. McElroy of almost \$1.5 million and

this income is only taxable at the low 25-percent capital gains rate.

Six officials of United States Steel purchased 32,300 shares of stock under option during this same 5-month period. This represents a possible gift to these highly compensated men of \$1,291,000. Mr. Blough, who purchased 12,000 shares, reportedly draws compensation of \$275,000 per year, as of 1958, which should put him in the 90-percent income tax bracket. The restricted stock option tax gimmick was worth perhaps \$300,000 to him on this one block of 12,000 shares of stock. In other words, the Government may have lost \$300,000 in tax revenue on this one transaction alone.

General Foods has a very active stock option operation. During the period covered by the last 5 monthly reports of the SEC, 22 of its officers and directors purchased 35,270 shares of that company's stock. This one block of stock is worth, at recent prices, almost \$3 million.

As I said, no records exist which will show the extent of the revenue lost by the Government through the restricted stock option bonanza. Various studies have been made which show that one-half to two-thirds of the companies listed on the major exchanges have stock option plans for their executives. There is not even an estimate, so far as I can determine, of plans which exist in corporations not listed on the major exchanges.

It might be felt that the profits and revenue losses I have calculated on the transactions noted are unrealistic, since I related profits to 1958 prices. I think not. In fact, some of these options date back several years, and were granted at even lower prices.

For example, the 1960 annual report of the Gulf Oil Corp. came across my desk a few days ago. This report contains a statement to the effect that option prices of various options granted by Gulf range from \$11.66 to \$36.17 a share. Gulf is now selling at around \$37. The fortunate executive who got an option price of \$11.66 is financially well off. Incidentally, that company is holding in reserve about half a million shares of its stock for sale to officers and employees under the stock option plan. This is in addition to the one-half million shares already placed under option.

How, Mr. President, can this be considered or treated other than as income, as compensation, to the officers and the high-salaried employees of the company? Under the law, as I have said, it is not treated as ordinary income, nor is it treated as income at all, at the time the option is exercised, but only at such time as the stock is sold.

With reference to the revenue aspects of this matter, may I add one more statistic. During the period covered by the SEC February report, more than \$23 million worth of stock, at current prices, was reportedly purchased under option. It is entirely possible that some of the options exercised were not restricted stock options, but it is unlikely that many were of the unrestricted type. Bearing in

mind that these purchases were made by officers and directors only, and that the purchases of other top management personnel were not reported, and further, that these figures cover only companies listed on the major exchanges, it is reasonable to assume that total purchases under the exercise of restricted stock options amounted to perhaps twice this figure, or \$46 million.

It can further safely be assumed that there is a potential profit of at least 50 percent in these purchases, or \$23 million. At the capital gains rate, these insiders will pay only \$5.75 million in taxes. At ordinary income rates, assuming an average of a 70-percent bracket, again a conservative figure, they should pay \$16.1 million. This is a loss of revenue of \$10.35 million, for an annual rate of about \$124 million.

Mr. President, the bill I have introduced is a simple one. Its enactment will correct the situation I have described with respect to restricted stock options. This is a matter of importance. It goes not only to revenue, but also to morality and fairness in tax law. As Mr. Livingston has said:

Executives have become an overprivileged class in a democratic society. Their power to overpay themselves with legal sanction could, if unchecked, erode the very structure on which they and their corporations depend for survival. Corporate power could become synonymous with grab-bag morality.

I can think of no justification for a continuation of the tax concessions associated with the restricted stock option. This type of option is clearly designed for the purpose of compensating executives at a low tax rate. This abuse can, and should, be corrected immediately.

It is my hope that President Kennedy will include in his tax message expected to be delivered to the Congress next week a recommendation in this regard. I realize that this first tax message of the President may be limited in scope, but even so, the restricted stock option represents such a glaring and unjustified loophole in our tax laws that I would hope to have a recommendation from the President for its correction in this very first, though limited, tax message.

Be that as it may, whether the President makes a recommendation or not, I intend to press for the repeal of the favored tax treatment of the restricted stock option, and will offer the bill I have just introduced as an amendment to the first appropriate House-passed tax measure which comes before the Senate for active consideration.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the

minimum wage under the act to \$1.25 an hour, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Illinois [Mr. DIRKSEN] in the nature of a substitute.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOPER. Mr. President, on behalf of my colleague from Kentucky [Mr. MORTON], the Senator from Delaware [Mr. BOGGS], the senior Senator from South Carolina [Mr. JOHNSTON], the senior Senator from Florida [Mr. HOLLAND], and myself, I offer my amendment designated "4-13-61—B."

The PRESIDING OFFICER (Mr. SMITH of Massachusetts in the chair). The amendment will be stated.

The LEGISLATIVE CLERK. On page 25 it is proposed to strike out lines 17 to 25, inclusive.

Redesignate subsections (d) to (h), inclusive, as (c) to (g), respectively.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kentucky.

Mr. COOPER. Mr. President, the amendment is simple, and is not difficult to understand. It would strike the language on page 25 of the bill beginning with line 17 and continuing to the end of the page. I believe a brief explanation will inform Senators of the purpose of the amendment.

Senators know that the Fair Labor Standards Act of 1938, as amended, provides that certain seasonal industries and agricultural processing industries, although they may be subject to the minimum wage requirements of the act, receive an exemption for a number of workweeks from the requirement to pay time-and-a-half for overtime. There are two types of exemptions.

The first, the limited exemption in section 7(b)(3) of the act, is for industries which are declared by the Secretary of Labor to be of a seasonal nature. An exemption of 14 weeks is given, but it is provided that if workers in such seasonal industries work more than 56 hours in any workweek, or more than 12 hours in any day, the overtime provisions shall apply after 12 hours a day or 56 hours a week.

The second, in section 7(c) of the act, is for industries engaged in the first processing of agricultural products. For some agricultural products, it provides an unlimited, year-round exemption from the overtime provisions. The act provides:

(c) (1) In the case of an employer engaged in the first processing of milk, buttermilk, whey, skimmmed milk, or cream into dairy products, or in the ginning and compressing of cotton, or in the processing of cottonseed, or in the processing of sugar beets, sugar-beet molasses, sugarcane, or maple sap, into sugar

(but not refined sugar) or into sirup, the provisions of subsection (a) shall not apply to his employees in any place of employment where he is so engaged.

For other agricultural products, this exemption is restricted to 14 workweeks. Section 7(c) of the act continues:

(2) and in the case of an employer engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits or vegetables, or in the first processing, within the area of production (as defined by the Secretary), of any agricultural or horticultural commodity during seasonal operations, or in handling, slaughtering, or dressing poultry or livestock, the provisions of subsection (a), during a period or periods of not more than 14 workweeks in the aggregate in any calendar year, shall not apply to his employees in any place of employment where he is so engaged.

However, for industries engaged in the first processing, of, canning or packing of perishable or seasonal fresh fruits and vegetables, or in the first processing within the area of production of any agricultural or horticultural commodity during seasonal operations, this exemption in 7(c), which is now a complete exemption of overtime payments for 14 weeks, is in addition to their limited exemption under 7(b)(3) as seasonal industries, of 14 weeks but for periods of work not exceeding 56 hours in a week.

The amendment of the Senate committee would reduce the period of both exemptions from 14 weeks to 10 weeks—that is, from a total of 28 weeks to 20 weeks.

Last year, together with the senior Senator from North Dakota [Mr. YOUNG], I offered a similar amendment and it was agreed to. This year, the committee has singled out, among all the agricultural exemptions, the processing of fruits and vegetables, and has proposed to reduce both exemptions from 14 weeks to 10 weeks.

Curiously enough, in the last section of the bill, section 12, the committee has asked the Secretary of Labor to study the whole range of these exemptions under all 3 sections of the act. The Secretary of Labor is asked to study the range of exemption and report to the next Congress. The section reads as follows:

STUDY OF AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS

SEC. 12. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(c), 13(a)(10) and 7(b)(3), and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

Although the section refers to the exemptions as "complicated," yet it singles out fruits and vegetables. Without any study, the period of the exemptions would be reduced from 14 to 10 weeks.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. CARLSON. As I understand the amendment of the Senator from Ken-

tucky, it would leave existing exemptions about as they are under present operations in those industries.

Mr. COOPER. Exactly. It would maintain the present exemptions.

Mr. CARLSON. I sincerely hope that the Senator's amendment will be agreed to. I have received a telegram from the Kansas Farm Bureau Federation urging support of the amendment. I think at least the exemptions should be continued on the present basis, in view of the fact that the operation is seasonal.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. HOLLAND. Do I correctly understand that the effect of the amendment would be to preserve in exactly the present form, as it has operated satisfactorily for many years, the present 28-week exemption consisting of two exemptions of 14 weeks each, one absolute and one limited, so far as overtime is concerned? Would it preserve that application to the fresh fruits and vegetables processing industries?

Mr. COOPER. That is correct.

Mr. HOLLAND. I congratulate and compliment the Senator for offering the amendment. I am glad to be a cosponsor of the amendment. As the Senator well knows, the fruit and vegetable industries of my State are the principal agricultural industries. They are now producing for the farmers more than \$800 million worth of agricultural products a year. It is a matter of very vital concern to them not to have their processing operations split into various divisions—10 weeks of that, 14 weeks of this, and 10 weeks of something else. They should have some sort of stable program under which they can continue to operate. I am told that they have operated with reasonable satisfaction to themselves and to the labor that works with them under the present system, and they are very anxious to have it continued.

Let me say to our friends who have sponsored the amendment that the principal complaints I have had with reference to the present law throughout the years have been from workers who, because of the seasonal nature of the business, wished to work more than 56 hours a week during the 14 weeks when there is a limitation, because they wanted to make as much income as they could. They realized that, with a limitation of 56 hours, without the application of overtime, 56 hours was all they would receive. I think the present program is good. I hope it will be continued; and I hope the Senator will be successful in his efforts, for which I commend him.

Mr. COOPER. I do not wish to take a great deal of time, but this question will arise again, I am sure, even if we are successful in securing adoption of the amendment.

I think it is worth while to give a little background. As the Senator has said, the business is seasonal. The provision applies to a highly seasonal industry—perishable vegetables and perishable fruits. They must be processed quickly. If the workers must work at night, they work at night. Employers cannot have

several shifts waiting around to work. The work must be done and done quickly.

As the Senator from Florida has stated, I believe the people who work at the plants are glad to get the work. I have never heard anyone complain about the pay. I find in my own State and in my own county that farmers and farmworkers go into Indiana and Ohio to get this kind of work in processing plants. They are glad to get the wages that are paid.

I am sure those of us who live in agricultural communities are all familiar with this situation. Time and time again we have seen local companies, small companies established by local capital, set up for the processing of fruits and vegetables, or berries.

Often these are marginal operations. They have a hard time keeping going. Yet, this is a great program for the community. It is good for surplus labor. It is good for the diversification of agriculture. I have found no one who has opposed these operations. I have met no people working in these plants who are urging a change.

My final point is this: I have supported minimum wage legislation, and I am sure I will support the pending bill. But I have never been in favor of the application of the minimum wage principle to the agricultural economy, or of having it applied to agricultural work.

I know a great effort is being made to apply wage and hour provisions to the farmer. I have never found a farmer who wants it applied to agriculture. However, efforts are being made to bring agricultural workers and farmers more and more into the minimum wage and hour system.

The application of the minimum wage concept is needed in the production industries, and in industries which have a great effect upon interstate commerce. However, the field of agriculture is entirely different, and I do not want the concept extended into that field.

Mr. BOGGS. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. BOGGS. I compliment the distinguished senior Senator from Kentucky on his amendment. He has very ably presented the seasonal requirements of the situation which justify the amendment. However, I wish to reemphasize the point he made in regard to section 12 of the bill, which calls upon the Secretary of Labor to make a study and to report to Congress at the second session of this Congress on this problem.

It would seem to me that if we are to consider any legislation on this point we should wait until we receive the benefit of this study and recommendation. The last paragraph clearly calls for the acceptance of the amendment.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. HUMPHREY. I wish to say only a few words with reference to the amendment which, I understand, will be accepted by the chairman of the subcommittee and which the Senator from Kentucky has spoken on so ably and persuasively.

The Senator mentioned in his remarks that the whole matter of agricultural exemptions is under study and that the purpose of the Senator's amendment is to keep the present situation in the law rather than to single it out.

The point I should like to make is that I hope when the Secretary of Labor makes the study relating to the exemptions concerning agricultural products and of the labor engaged in the processing of agricultural products that the facts which moved the committee to make this kind of adjustment, as recommended in the committee bill, will be carefully reviewed by the Secretary of Labor and will be taken into full consideration.

I say this because at the time the original regulations were laid down, the conditions in the canning industry, for example were different than they are today, due to improved machinery—automation, as it is called. I hope all these factors will be carefully taken into consideration.

I understand that the Senator from Kentucky felt it was somewhat discriminatory to single out one area, and therefore, has asked that the regulations remain as they are. My hope is that when the study is made of all the exemptions relating to agricultural products and of labor involved in the processing of agricultural products, the Secretary of Labor will consult with the Secretary of Agriculture, and that he will also take into consideration the hearings which were held on the bill. I cannot believe that the vast majority of Senators on the committee would make a recommendation of the kind they made in the bill, of reducing the exemption, without some basis of evidence.

I do not desire to object to the Senator's amendment. It will be accepted by the committee, I understand. I merely wished to make the legislative record clear as to the situation relating to the study which I understand is to be reported on to Congress in January. Am I correct?

Mr. COOPER. The report is to be submitted in January 1962.

Mr. JOHNSTON. Mr. President, I am a coauthor of the amendment, and naturally I agree with it 100 percent. I believe we should do something along this line to help out the seasonal crops on the farms.

I therefore support the amendment to retain the present provisions of the Fair Labor Standards Act relative to the exemption of concerns engaged in seasonal operations from the overtime provisions of the act.

I trust that everyone recognizes that this amendment does not involve minimum wages. It involves only the question of paying time and a half after 40 hours of employment during the week.

The act contains two provisions relating to this question. The first of these is in section 7(c) and provides that time and a half rates need not be paid after 40 hours for certain industries, mostly of a seasonal nature, engaged in processing or marketing specified farm products during a 14-week period.

The second provision is in section 7(b)(3) which provides that in industries found by the Secretary of Labor to be of a seasonal nature, time and a half rates need not be paid after 40 hours, but shall be paid after 12 hours in any day and after 56 hours in any week. This provision, too, is applicable only for a period of 14 weeks.

In some instances, for example, in packing fresh fruits and vegetables, both exemptions apply, making a total of 28 weeks in the year during which they are completely exempt from overtime for 14 weeks and partially exempt for 14 weeks.

In considering this question we need to recall why the overtime provision was enacted. It was enacted to spread the work—so that some workers could not be employed long hours while others were unemployed.

This purpose is not applicable to a seasonal operation. In seasonal operations it is to the mutual advantage of all concerned, the worker, the farmer, and the employer, that the workweek be flexible. The application of the overtime requirement would serve no purpose.

The exemption from overtime is helpful to the employer in that it permits some flexibility in the workweek to take care of weekly fluctuations in the quantity of the product handled.

The exemption from overtime is helpful to the worker, because since he is employed on a seasonal basis, it is to his advantage to be permitted to work more than 40 hours a week during those weeks in which the plant is busy and the employer would like to keep operating for more than 40 hours. It would not provide the worker any benefit to create a barrier to such overtime employment.

The exemption is helpful to the farmer since it is to his advantage that the plant operate more than 40 hours a week during seasonal peaks so that it can more efficiently receive and handle his process.

I appreciate that the bill we are considering does not eliminate these exemptions from overtime, but it does shorten them.

It is difficult to see any advantage to anyone flowing from such curtailment of the overtime exemption.

Any effect of reducing the overtime exemption would appear to be harmful to the interests of all concerned—the farmer, the work, the employer.

I therefore hope and recommend that the amendment offered by Mr. Cooper will be approved.

Among the industries for which this exemption is of major importance are those industries engaged in packing, shipping, drying, canning, freezing or other processing of fruits and vegetables, such crops as lettuce, tomatoes, green beans, peas, grapes, peaches, pears, apples, citrus fruits, berries, cranberries, cherries, prunes, potatoes, sweet potatoes, and many other vegetable and fruit crops. Production of these crops is widespread. They are important to the economy of every State.

Mr. McNAMARA. Mr. President, in view of the legislative history which has

been developed during the colloquy, I am glad to say for the committee that we will accept the amendment.

Mr. COOPER. I appreciate very much the action of the chairman of the committee.

Mr. LAUSCHE. Mr. President, I congratulate the chairman for accepting the amendment. The information I have received from Ohio is that this amendment is vitally needed.

Mr. McNAMARA. The Senator from Ohio discussed the matter with me earlier, and his argument was very persuasive.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Kentucky.

The amendment to the amendment was agreed to.

Mr. HOLLAND. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. KUCHEL. I move to lay that motion on the table.

The motion to table was agreed to.

COMPETITION, NOT CARTELIZATION, NEEDED FOR DEFENSE PROCUREMENT

Mr. JAVITS. Mr. President, on March 29 the deputy leader of the minority, the distinguished senior Senator from California [Mr. KUCHEL] made a highly interesting speech on the floor of the Senate in which he dealt with the principles and practices basic to sound procurement policy as applied to the Department of Defense. I propose to answer those remarks. I have supplied copies of my prospective remarks to the Senators from California, as well as to the junior Senator from New York and other interested Senators.

I believe it is necessary to clarify some of the misconceptions, possibly even some erroneous conclusions, which I feel certain crept unwittingly into the Senator's thoroughgoing, far-reaching exposition. At the same time, I should like to point to the wide areas between us.

I should like to emphasize, if I may have the attention, for this purpose, of the Senators from California, that I do not believe any of us are engaging in shadowboxing. I hope that this debate, which we all understand, is very heavily dictated by conditions in our own States, may result to our mutual benefit and to the benefit of the country, and perhaps in a new look at the whole procurement policy of the Department of Defense, which, unfortunately or fortunately, bulks so very large in parts of the economies of our State, as it does in parts of the economies of other States.

I think Senators are not insensitive to the situations in their respective States. I can say that the place most seriously affected in the State of New York is the area around Buffalo. An absolutely unacceptable rate of unemployment there has been attributable to the fact that defense orders in that area have dropped very seriously. That area has a rate of unemployment which is between 10 and 14 percent. It seems almost a crime. Perhaps nothing can

be done about it. However, I explain this to the Senators from California because I do not want them to believe that we are picking on them or their State. It really represents a deep-seated problem which the people of our State feel we have to bring up and discuss, to try to see if in some way, we can get help.

Mr. BUTLER. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. BUTLER. Has the Senator from New York seen the resolution which I submitted some months ago, asking that the Committee on Armed Services examine into this general question and determine why it is that one State receives 24 percent of all prime contracts and 28 percent of all research and development contracts?

Mr. JAVITS. I am generally familiar with the Senator's resolution; I shall examine it again.

Mr. BUTLER. I hope the Senator from New York will cosponsor it and help to have action taken on it, because I think it is a matter which the Senate should consider. I touched upon this question last year and have brought it up again this year. I think it is a matter in which the Senate should interest itself.

As a matter of fact, at this time I am circulating a letter among all Senators, asking for their feelings in connection with the matter.

Mr. JAVITS. I know that the Senator's State of Maryland is one of the States which is vitally interested in the question. In the course of my remarks, later, I shall discuss the basis of the proposed legislation introduced by the entire New York delegation, which I hope, too, may help in this situation. However, I shall certainly give the strictest attention to the Senator's resolution.

Mr. ENGLE. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. ENGLE. We in California would welcome such an investigation as has been suggested by the Senator from Maryland. We think it would be illuminating for some of the other States to learn what California has done to warrant obtaining the kind of business we get in our area. If the distinguished Senator from New York will remain on the floor, a little later this afternoon, when time is available, I expect to deal with that subject matter and give some answers to this question.

Mr. BUTLER. Mr. President, will the Senator from New York further yield?

Mr. JAVITS. I yield.

Mr. BUTLER. I think the Senate as a whole would be very much interested to learn why it is that plants on the eastern seaboard which do the identical things that new plants now being built in California do, are being closed, while new plants are being built on the west coast to do the same kind of work. I think many persons would be interested in having an answer to that question.

If the Senator from California can justify 24 percent of all the prime procurement contracts of the Department of Defense being concentrated in one State, he will have done much to convince me.

Maryland's industries are being closed. We talk about depressed areas and about industries moving from one State to another. Yet California industries receive almost 25 percent of all the prime contracts of the U.S. Government.

Mr. ENGLE. Mr. President, will the Senator from New York further yield?

Mr. JAVITS. I yield.

Mr. ENGLE. I suppose that the Senator from Maryland has not implied that there is any political skulduggery at the crossroads.

Mr. BUTLER. I do not recall finding any. I think last year we had a colloquy which suggested that there might have been something of that sort. I have not implied anything of the kind. Last year we had a colloquy which I think suggested that there might have been something of that sort. However, I have not implied it at all.

I should like to have the Committee on Armed Services make an investigation of the matter and determine why it is necessary to award to industries in one State 24 percent of all the prime defense procurement contracts of this great Nation. That is what I should like to know.

Mr. ENGLE. I expect to deal with this subject at some length.

Mr. BUTLER. Thirty percent of all the research and development contracts have been awarded to industries in California. Talk about dispersal: That is the reverse of dispersal. I think some dispersal is needed. I think the Senate should consider the question. I have thought so for several years, and I have asked the Senate to take some action. No action has been taken. I hope the Senator from California will speak to the Senator from Georgia and ask him to hold hearings on the question. I think such hearings would be interesting.

Mr. ENGLE. They certainly would be interesting. I shall discuss the question a little later this afternoon. If the Senator from Maryland concedes that there is no political skulduggery at the crossroads, but that if there was any, it occurred in the preceding administration, when the Republican Party was in control of the White House and the Pentagon, that would be one question. But since he does not concede that, or does not agree to that suggestion, then one short suggestion I would make to him and to the Senator from New York is that the folks in their two States sharpen their pencils a little.

Mr. BUTLER. Prior to an investigation, I cannot concede anything in respect to this matter. I should first like to know the facts. When the facts have been ascertained, that will be the time to make concessions or accusations. Until the facts have been brought to light, I shall remain silent.

Mr. ENGLE. I was not making any accusations.

Mr. BUTLER. All I ask is an investigation. I am not accusing the Department of Defense or any of the former officers of the services, or anyone else. I simply say that a situation exists in which 25 percent of all prime procurement contracts for the defense of the Nation are located in 1 State out of 50.

I should like to know why. I am not accusing anyone. I may later, but I am not doing so now. I simply want to know why. Last year I asked for an investigation, but my request was shoved aside. I am happy to have the Senator from New York now ask that the same thing be done. I think that if enough steam can be generated, we may learn the answer.

I observe the distinguished Senator from West Virginia [Mr. RANDOLPH] on the floor. Perhaps he would like to speak on this subject.

Mr. RANDOLPH. Mr. President, I made a speech—

Mr. JAVITS. Mr. President, I should like to have some regularity of procedure. I have the floor.

Mr. CARLSON. Mr. President, I do not wish to get caught in the cross currents between the east coast and the west coast, between New York, Maryland, and California. But this problem is a real one, and I wish to commend the Senator from New York for bringing it up. It is of concern to States in the Middle West, as well as to States on the coast. The problem needs deep study and deep thought.

I believe it is generally agreed that in Wichita, Kans., which has been recognized as the air capital of the Nation, there are some of the greatest facilities for the production of aircraft our country has ever had. But they, too, and that section are suffering from this situation.

I realize that this development is a very difficult one for the Department of Defense, because of the changes in the programs and types of defense. So there are bound to be difficulties and problems. However, I wish to commend the Senator from New York for bringing up this matter.

I am confident that after the Senator from New York concludes his speech, the Department of Defense will read the record and will hope to be of assistance to all areas where there is great unemployment; and today many areas of the Nation find themselves in that situation.

So I commend the Senator from New York for bringing up this matter.

Mr. JAVITS. I thank the Senator from Kansas.

Mr. RANDOLPH. Mr. President—
The PRESIDING OFFICER (Mr. BURDICK in the chair). Does the Senator from New York yield to the Senator from West Virginia?

Mr. JAVITS. I yield.

Mr. RANDOLPH. I am grateful to the Senator from New York for yielding to me.

Earlier today the colleague of the Senator from New York [Mr. KEATING] made reference to a speech on this subject which I made in the Senate approximately 2 weeks ago.

I commend the Senator who now has the floor, and I assure him that this matter is one which I address on an objective basis, as I am sure is true with respect to other Senators engaging in this discussion. Ours is a determination, as the Senator from Maryland has stated, to develop the facts in connection with the defense procurement programs as they relate to the percentages applicable to

firms awarded contracts within the individual States.

When I spoke on this subject in the Senate on March 31, I cited 1960 fiscal year statistics on military personnel pay and procurement contract actions and noted that California leads all other States very substantially in both categories. I said then, and I repeat now, that eight States, including West Virginia, participated in defense procurement actions at a level of only one-tenth of 1 percent or lower, while California firms had received 23.7 percent of total listed military procurement in that year. I reiterate that 23.7 percent is an inordinately high rate for firms in a single State and that one-tenth of 1 percent or lower for firms in eight States is deplorably low.

Indeed, a serious imbalance in distribution of defense expenditures has been permitted to develop and exist during the past decade. I agree that it is a situation which will be difficult to correct, but efforts—energetic efforts—must be made to do so.

Mr. BUTLER. Mr. President, if the Senator from New York will yield further, let me say, following the remarks of the Senator from Kansas—who, unfortunately, has now left the floor—that this is not a new matter. I went into it fully last year. I submitted a resolution which called for an examination of the matter. But somehow the resolution fell on deaf ears; no one seemed to pay much attention to it.

However, Mr. President, this problem should be looked into by the U.S. Senate.

I know California is a great State, and I would never say anything against it. But I would say that California is obtaining an inordinate amount of defense contracts; and there is some reason for it, and I wish to know the reason.

Mr. JAVITS. Mr. President, Senate bill 1178, entitled "The Armed Services Competitive Procurement Act of 1961," which my colleague from New York [Mr. KEATING] and I have introduced, has been referred to the Committee on Armed Services. If the committee gives the bill a hearing, it will encompass the very thing the Senator from Maryland also desires to have encompassed, namely, a careful consideration of, and inquiry into, the procurement practices and how they work out.

Mr. BUTLER. Mr. President, let me say that I do not know the extent to which New York is suffering; but industries in Maryland are closing, and a duplicate industry in California is flourishing. I wish to know why.

Mr. ENGLE. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. ENGLE. Would the Senator have any objection to including in the study, when it is made, a determination of the question of why over 80 percent of the commercial aircraft built in the United States are built in the State of California? I think that might have an important bearing on this question.

Incidentally, we might also have an inquiry made as to why so many automobiles are built in Michigan.

Mr. KUCHEL. Mr. President, will the Senator from New York yield to me?

Mr. JAVITS. I yield.

Mr. KUCHEL. In answer to the question which my good friend, the Senator from Maryland, has raised, I merely wish to say that this is not the first time the proposed legislation sponsored by the Senators from New York has been debated in the Senate, or the first time it has been pending before the Armed Services Committee. During the prior Congress testimony on an identical bill was heard by the Armed Services Committee, under the chairmanship of the distinguished Senator from Georgia [Mr. RUSSELL]. The allegations and the asseverations which have been made in the Senate today were then made in that committee, and were answered by representatives of the Department of Defense; and the bill stayed in the committee. I hope history will repeat itself.

Mr. JAVITS. Mr. President, I should like to proceed with the development of my thesis.

The Senator from California said:

I firmly maintain that our national welfare cannot tolerate having defense procurement made a political football.

I do not think anyone in or outside of Congress will dispute the truth of this statement. However, I believe it is an essentially negative truth. It must be carried further before it takes on its true meaning, because the national welfare cannot afford to have defense procurement become a "dead" ball, out of play, going nowhere. In other words, congressional direction is sorely needed, in order to keep the ball in play and to score points for the Nation's defense. There is now too much administrative inertia which permits the ball to stay in one place, and keeps it out of competition and out of positive, scoring action. S. 1178, the Armed Services Competitive Procurement Act of 1961, is specifically designed to provide this kind of congressional direction, and was, with this purpose in mind, introduced in the Senate by my colleague [Mr. KEATING] and myself, and in the House of Representatives by the entire New York State delegation.

The fact that the bill remained in the Armed Services Committee does not make the bill a bad one or one based on an unwise idea. The fact that so many States are exercised about this situation will, I believe, ultimately result in the taking of some action by the Armed Services Committee.

The Senator from California said:

I am impelled to conclude that certain legislative proposals relating to the placement of defense procurement contracts are inspired in large part by obvious covetousness, by selfish envy, and by greater concern over local welfare than for national security.

I hardly believe that the Senator could have been referring to the legislation which I have just cited, because covetousness, envy, and purely local self-interest would not be the result of increased and fair competition. However, in the event that the Senator was referring to S. 1178, the Armed Services Competitive Procurement Act, let me say that

the basic facts about New York State obviate both the existence of, and the need for, such despicable motivations on the part of its Representatives in Congress.

New York State is a highly productive State, filled with the energy and the enterprise which enabled it to contribute, according to the Treasury Department, \$17.3 billion—or 18 percent—of all the internal revenue collected in the United States during the fiscal year 1960. This is seven times more than the \$2.4 billion in defense contracts received by New York State during the same period. New York State is proud that it can make such an overwhelming contribution to our Nation's welfare. Our local interest is to help the national interest. But I must say that we cannot remain silent when there is any implied charge of covetousness, envy, and purely local self-interest, when, by way of comparison, it may be noted that California, for instance, contributed less than \$8 billion to internal revenue collection in the fiscal year 1960, with more than 60 percent—or \$4.8 billion—returning to California in defense contracts. In other words, New York State pays twice as much in taxes, but receives only half as much in defense procurement contracts as does California.

The Senator from California asked whether it would be economical to award "defense contracts to concerns in areas lacking scientific institutions which could help solve technical design or production problems."

I agree with the Senator that it would not be economical to award contracts to such areas, and I am proud to point out that New York State has more than 1,000 basic and industrial research facilities—far more than any other State—with 625 laboratories, employing 30,000 professional scientists and engineers, 19,000 technicians and 22,000 supporting personnel—the largest concentration in the Nation—equipped to meet every conceivable research need. In addition, New York State has 170 colleges and universities engaged in research projects and turning out more college and graduate level scientists than any other State. These business and nonprofit research facilities received \$1.6 billion in prime defense contracts for experimental, developmental, test and research work during the fiscal year 1960—67 percent of all the contracts awarded to New York State. By comparison, California received only slightly more in such contracts—\$1.8 billion, or only 37 percent of all the contracts awarded to that State:

It is quite obvious that New York is getting far more than its proportion, in terms of the awards for defense procurement, of contracts for research and development; and certainly there is no claim that such scientific institutions are predominantly concentrated in California. In other words, it is quite obvious that the difference between the total number of contracts going to New York and those going to California has very little to do with the availability of scientific institutions. Rather, the difference resides in the \$2.2 billion gap in other

procurement between New York and California.

Lest it be thought that this was a phenomenon of only last year, the data for fiscal 1959 are very similar—so this phenomenon is not limited to only 1 year. More than two-thirds of the \$2.4 billion in defense procurement in New York State was for experimental, developmental, test and research work, while less than one-third of California's total of \$5.4 billion in defense contracts was for this kind of procurement.

The Senator from California also made some implications about our weather in New York State. He questioned whether contractors could "keep up with rigid production schedules" under such conditions—in which he also included the "lack of scientific facilities," with which I have already dealt, and the lack of great expanses of space. He wondered whether they deprive New York of some of the defense contract opportunities which he said properly go to California.

As to the weather, I am sure that my colleague, the Senator from New York [Mr. KEATING] who lives in upstate New York, where the winters have been known to be severe, and who is rapidly becoming the Senate's foremost expert on weather conditions in general, is much more qualified than am I to give an answer. However, I believe he will agree with me that even the 40-inch snowfalls in Rochester and Buffalo are dealt with by the inhabitants of those regions with the same equanimity as the occasional mists creeping in from the Pacific Ocean are dealt with by the people of California.

Regarding the importance of wide-open spaces to defense contracts, I am puzzled why Florida, with its famous Cape Canaveral, and Texas, with its great expanses, together have been able to attract less than one-third of the defense procurement which went to California, both in fiscal 1959 and fiscal 1960.

At this point, I should like to invite the senior Senator from California to write a joint letter with me—and any other member of the New York State congressional delegation who wishes to accede to this letter—to the Secretary of Defense, asking him if, in the experience of his Department, the contractors in New York State have ever proven themselves less able to keep "rigid production schedules" than the contractors in California or any other State in the Union. Although some may think of this offer as a challenge to the Senator from California, I consider it a challenge to the people of New York. If, contrary to my every expectation, the Secretary's answer should prove to be in the affirmative, then the businessmen and workers of New York should be made aware of why they are at a disadvantage in the field of defense procurement.

Before concluding, I should like to touch on the remaining points raised by the Senator from California in his remarks of March 29. The Senator appeared disturbed by the fact that California's employment in aircraft production has declined more rapidly than that in the missile and space industries has

risen, and that the defense-oriented industries in California had a net reduction of 1,000 jobs during the last 4 years. By way of comparison, the latest statistics show that net employment in the aerospace industries, for the nation as a whole, dropped by 60,000 during the past year alone.

The Senator referred to the substantial share of defense procurement work which is subcontracted by California firms to businesses in other States. Although there are no definite figures available on the extent of subcontracts let out by firms in any State, I am sure that this practice is common throughout the country and does not materially affect the percentage of actual work done in any one State. This is a matter of choice for the individual prime contractor, and has nothing to do with the procurement policies which determine who is to receive prime contracts from the Defense Department, except insofar as it affects the individual prime contractor's ability to carry out his work. Success or failure in subcontracting procedures by the prime contractor would be reflected in the prime contractor's ability to meet production schedules—as much or more so than the availability of research facilities, balmy weather, or open spaces.

The Senator from California quoted a long series of extracts from reports and statements by officials of the Defense Department, as well as by the distinguished chairman of the House Armed Services Committee, Representative CARL VINSON, purporting to demonstrate that the provisions of S. 1178, placing emphasis on improving the machinery for channeling procurement orders into areas of substantial labor surplus, would be contrary to the law and to the national interest. Everything else being equal, why should not the Federal Government provide "set-asides" for labor-surplus areas, as it already does for small business? Are we to assume that the Federal Government cannot help itself any more than can a private business with four plants, three of which are working at capacity and one of which is partially shut down?

I should like to quote from the letter of April 5, 1961, sent by Mr. John L. Moore, Administrator of the General Services Administration to the steering committee of the New York State congressional delegation, in which are outlined some of the new steps in Government procurement policy aimed at helping labor-surplus areas. These new procedures, applicable to the Defense Department as well as GSA, were instituted after meetings among representatives of the Departments of Defense and Labor, the General Services Administration, the Small Business Administration, the Office of Civil and Defense Mobilization, and the General Accounting Office. They follow the general intention of the provisions of S. 1178 and they include the following steps:

First. A regulation, based on Defense Manpower Policy No. 4, which sets forth policies and procedures that are designed to increase the flow of contracts into labor surplus areas, has been prepared and is in the final stages of coordi-

nation with and review by the agencies concerned with procurement, preparatory to publication in the Federal Procurement Regulations. The regulation provides that preferences shall be given to labor surplus areas through partial set-asides of appropriate procurements and emphasizes that best efforts shall be used to award negotiated contracts to labor surplus area concerns and encourages prime contractors to award subcontracts to concerns which will perform a substantial portion of the production in labor surplus areas.

Second. The procedure in the Federal Procurement Regulations governing the treatment of equal low bids has been modified for the purpose of clarifying and strengthening the preference for labor surplus area concerns.

Third. Additional minor changes are being made in existing regulations to provide further assistance to labor surplus area concerns, such as: (a) giving first preference to small business labor surplus area concerns in set-asides for small business, (b) providing that partial surplus labor area set-asides may be made if only one or more (heretofore two or more) labor surplus area concerns having the technical competence and productive capacity to furnish a substantial proportion of the procurement at a reasonable price may be expected to submit bids or offers, (c) increasing the amount of progress payments which may be made to labor surplus area firms during the performance of a contract, and (d) increasing the extent of solicitation of bids in all procurements whenever there is the possibility that additional labor surplus area firms might be induced to submit bids.

This kind of policy can be helpful in preventing the severe economic damage and dislocation that could result from defense procurement practices which during last year's October-December quarter permitted a sudden 60 percent drop in the value of contracts let to New York State firms in areas which have had a substantial labor surplus for up to 3 years.

Finally, the Senator from California said at the beginning of his very fine speech:

Our defense programs must not be operated as a 1961-style WPA.

Again, as with his other statements of broad principle, I am in absolute agreement.

However, again we must go further in order to get to the heart of the intention of the legislation proposed by myself and my colleagues from New York.

Indeed, defense procurement should not become a 1961-style WPA, but neither must it be a 1961-style gold rush—the channeling of defense efforts in one direction, notwithstanding the broad opportunities which exist in other industrial areas of the country.

I wish to summarize by making it clear that our legislation is not confined to New York's interests, but applies as well to other industrial States—Pennsylvania, New Jersey, Maryland, Illinois, the New England States, and other new-

ly industrialized areas like Kansas and West Virginia. The objective is to open up procurement opportunities to more intensive competition. Thus the States which now feel they are not getting an adequate share of defense procurement will be given their best chance.

If, on such an open competitive basis, California does better than the rest, perhaps even better than it is doing now, there can be no proper complaint. But the important point is that the basis for competition should be as broadly established as possible. As I have said, that is precisely what my colleague, the Senator from New York [Mr. KEATING] and I are proposing.

Mr. KEATING. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. KEATING. What my colleague has just said is entirely correct. The distinguished Senator from New York has concisely and accurately stated the effect of what our contention is with regard to procurement policy. I commend him on an exceptionally fine address, well thought out and well reasoned.

Mr. JAVITS. I am very grateful to my colleague.

I yield the floor.

VISIT TO THE SENATE BY JORDANIAN PARLIAMENTARY DELEGATION

Mr. SYMINGTON. Mr. President, I ask unanimous consent that the Senate may take a brief recess, in order that I may present to the Senators some Members of the Parliament of the great country of Jordan.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Missouri? Without objection, the Senate will take a recess, subject to the call of the Chair, so that Senators may greet the members of the Jordanian parliamentary delegation.

Thereupon (at 2 o'clock and 20 minutes p.m.) the Senate took a recess, subject to the call of the Chair.

During the recess Mr. Sa'id al-Mufti, Mr. 'Afif Salim al-Batarseh, Mr. Abdur-Raouf al-Fares, Mr. Jawdat al-Muhaisen, Mr. Abdul-Qader as-Saleh, and Mr. Saliba as-Sonna', members of the Jordanian parliamentary delegation, were greeted by Members of the Senate, who were presented by the Senator from Missouri [Mr. SYMINGTON].

On the expiration of the recess (at 2 o'clock and 22 minutes p.m.) the Senate reassembled, and was called to order by the Presiding Officer (Mr. BURDICK in the Chair).

Mr. SYMINGTON. Mr. President, I know we are all greatly honored to have with us these gentlemen, who come from a country which has been such a long-time friend and supporter of the United States. I express my deep appreciation to the Members of the Senate this afternoon for the courtesy and consideration they have shown our distinguished guests.

The PRESIDING OFFICER. The Senate is honored by the presence of our distinguished visitors from Jordan. [Applause, Senators rising.]

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. GOLDWATER obtained the floor.

Mr. CAPEHART. Mr. President, I ask unanimous consent that the Senator from Arizona yield to me and that I may speak for 3 to 5 minutes without the able Senator from Arizona losing his right to the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Indiana? The Chair hears none, and it is so ordered.

Mr. CAPEHART. Mr. President, here we go again. There are more than 5 million people unemployed in the United States. There is increasing automation. Many people, because of age and the fact that they are not skilled, have trouble obtaining jobs in the new scientific age in which we live.

Despite these things, here we go again, interfering with the private enterprise system, interfering with the businessman and throwing roadblocks in his path to stop him from giving jobs to people, while there are more than 5½ million people in the United States unemployed.

To show how impractical—I was going to say “ridiculous,” but I guess I should not use that word—some of the proposals and amendments are; for example, it is proposed that if a businessman does a million dollars worth of business a year and \$250,000 of the business is outside one State, then he will be required to pay a certain wage to his employees; but if the businessman does less than such an amount of business he will not be required to pay a certain wage.

What is proposed is to make “cheats” out of the businessmen of America. How will anybody keep a record of what is done? If a man has business amounting to \$251,000, what will he do? He may lay people off work. People may lose their jobs for a short time.

Why should we penalize a man for being able to do a million dollars worth of business? A man who does \$900,000 worth of business will have to pay less. That proposal is unworkable.

Either we ought to cover everybody in America or we ought to confine the proposal entirely to interstate commerce. I believe we should confine it to interstate commerce, because the Constitution gives Congress the right to legislate in regard to interstate commerce.

My goodness, what are we thinking about? Are we going to continue to pass legislation to cripple the businessmen of America, so that they cannot create jobs?

There are 5½ million people still unemployed in the United States. Those people worked for somebody before they were laid off. If that somebody could get

new orders and new business he would put these people back to work. The only way these people can get jobs is to have somebody put them back to work, unless we want them all to work for the Government. If they work for the Government, and the time comes that everybody works for the Government, we shall then have complete socialization.

We ought to confine the proposal legislation to 100 percent interstate commerce, or else we should cover everybody.

The idea is presented that we can say to a man, "If you do \$250,000 worth of business and you are on one side of the street, and the fellow on the other side of the street does only \$249,000 worth of business, you must pay a different wage to your employees than he must pay to his."

That is ridiculous, Mr. President. The whole business is ridiculous. What are we thinking about?

The businessmen of America are the only ones who can furnish jobs for people, unless we want the people to work for the Government. If the businessmen cannot furnish the jobs under existing conditions and existing wage rates, how are they going to do it with increased rates?

I am not opposed to having a minimum wage, if it is for interstate commerce. I would not be opposed to a proposal which covered everybody. However, the idea of trying to exempt some people and to cover others—to say that one businessman who has three retail stores in two different States is covered, and another who does not is not covered—does not make sense. Possibly the businessman would eliminate one of the retail stores, and that would mean a number of people would lose their jobs.

Mr. President, what are we trying to do? What we ought to be doing is something to encourage and to help the businessmen to give jobs to people who are laid off, instead of throwing roadblocks in their way and instead of worrying them to death. That is what we ought to do with legislation.

If I thought we would help anybody I would have no objection to the proposal. We cannot do it. Nobody can argue that, under the existing inflated prices, if the minimum wage should have been \$1 an hour before it ought to be less than \$1.25 now, if we are going to pass legislation. We do propose that. No one can make a sound argument that the minimum wage ought not to be increased, and I am not arguing that point. I am simply arguing about these "fuzzy things" which some seek to add to the bill. I repeat, such provisions simply will make it impossible for the businessmen to comply with any degree of honesty and any degree of intelligence. We shall throw further roadblocks into the way of the only people who can furnish jobs in America, unless the people are to work for the Government.

Why do we do this sort of thing, Mr. President? Why do we not, sometimes, do something which is simple, which is easy, which will encourage the businessmen, which will help put people back to

work, which is sound and workable? Must we make "cheats" out of our people? Can we not enable our people to handle their business intelligently?

I plead today that we do one of two things. I plead that we either confine the bill 100 percent to interstate commerce and treat everyone alike, or cover everyone and then treat everyone exactly alike. In my opinion, any other plan will not work and will do more harm than good. Of course, under the Constitution, I do not think we can cover everyone, because we have no jurisdiction in the field of intrastate commerce. The Constitution of the United States prohibits us from legislating on intrastate transactions. I thank the able Senator.

Mr. GOLDWATER. I am very happy to yield to the Senator from Indiana. I think the subject which the Senator from Indiana has discussed is very pertinent to the bill before us.

Mr. President, I offer my amendment designated "4-13-61-G."

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 14, beginning with line 5 it is proposed to strike out all through line 10, and insert in lieu thereof the following:

"(s) 'Enterprise engaged in an activity affecting commerce' includes any activity, business, or industry in commerce or necessary to commerce or to the production of goods for, or the distribution of goods in commerce, and means any of the following which is engaged in any activity affecting commerce:'"

Strike out the words "enterprise engaged in commerce or in the production of goods for commerce" wherever they appear in the bill and insert in lieu thereof the words "enterprise engaged in an activity affecting commerce."

On page 15, lines 19, 20, and 21, strike out the words "enterprise engaged in commerce or the production of goods for commerce" and insert in lieu thereof the words "enterprise engaged in an activity affecting commerce."

On page 17, lines 3 through 7, strike out all of section 4, and insert in lieu thereof the following:

"SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting after the words 'production of goods for commerce' wherever they appear, the following: 'or employed in any enterprise engaged in an activity affecting commerce.'"

On page 18, lines 16, 17, and 18, strike out the words "enterprise engaged in commerce or the production of goods for commerce" and insert in lieu thereof "enterprise engaged in an activity affecting commerce."

On page 27, lines 11 through 17, strike out all of section 7 and insert in lieu thereof the following:

"SEC. 7. Subsection (a) of section 8 of such Act is amended by inserting after the words 'production of goods for commerce' where they appear in the second sentence the following: 'or in any enterprise engaged in an activity affecting commerce.'"

On page 27, lines 19 through 23, strike out all of section 8 and insert in lieu thereof the following:

"SEC. 8. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: 'or in any enterprise engaged in an activity affecting commerce.'"

Mr. GOLDWATER. Mr. President, I wish to modify the amendment by strik-

ing out on page 2 of the amendment all of the first paragraph, that is, lines 1 through 4. The modified amendment need not be read. I will explain it as I go along.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment, "4-13-61-G," offered by Mr. GOLDWATER, as modified, is as follows:

On page 14, beginning with line 5, strike out all through line 10, and insert in lieu thereof the following:

"(s) 'Enterprise engaged in an activity affecting commerce' includes any activity, business, or industry in commerce or necessary to commerce or to the production of goods for, or the distribution of goods in commerce, and means any of the following which is engaged in any activity affecting commerce:'"

On page 15, lines 19, 20, and 21, strike out the words "enterprise engaged in commerce or the production of goods for commerce" and insert in lieu thereof the words "enterprise engaged in an activity affecting commerce."

On page 17, lines 3 through 7, strike out all of section 4, and insert in lieu thereof the following:

"SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting after the words 'production of goods for commerce' wherever they appear, the following: 'or employed in any enterprise engaged in an activity affecting commerce.'"

On page 18, lines 16, 17, and 18, strike out the words "enterprise engaged in commerce or the production of goods for commerce" and insert in lieu thereof "enterprise engaged in an activity affecting commerce."

On page 27, lines 11 through 17, strike out all of section 7 and insert in lieu thereof the following:

"SEC. 7. Subsection (a) of section 8 of such Act is amended by inserting after the words 'production of goods for commerce' where they appear in the second sentence the following: 'or in any enterprise engaged in an activity affecting commerce.'"

On page 27, lines 19 through 23, strike out all of section 8 and insert in lieu thereof the following:

"SEC. 8. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: 'or in any enterprise engaged in an activity affecting commerce.'"

Mr. GOLDWATER. The committee bill extends coverage, subject in some cases to certain dollar volume limitations, to enterprises engaged in interstate commerce or in the production of goods for commerce which are defined as enterprises employing 2 or more employees so engaged, or engaged in handling, selling, or otherwise working on goods that have been moved in or produced for interstate commerce by any person.

In the bill S. 1046, which in modified form passed the Senate last year as H.R. 12677, coverage was based on the concept of "enterprises engaged in any activity affecting commerce." This concept has been construed by the courts as constituting the broadest possible scope authorized by the Constitution of the power of Congress to regulate interstate commerce.

The presence of the "affecting commerce" concept in last year's bill, with its maximum coverage effect, seriously

disturbed many Members of Congress who realized that it meant the intrusion of extensive Federal regulation and control into areas of business activity which have always been regarded as fundamentally local in character, such as retail, service, building construction, local transit and other similar types of enterprise. As a result, the debate on the Senate floor on this aspect of last year's bill was more protracted and extensive than on any other aspect of the bill.

The present committee bill drops the phrase "affecting commerce" but the language which it offers in place of it is at least as broad, and in the opinion of some experts, even broader. The witnesses who testified for the AFL-CIO in behalf of the bill, although not entirely clear as to the scope of the new language, indicated that they nevertheless regarded it as substantially similar to the "affecting commerce" language.

Unfortunately there are many people, including a number of Senators, who though fully aware of the broad scope of the "affecting commerce" language, are under the mistaken impression that the new commerce language in the committee is narrower in scope. To these Senators I suggest that they ask the sponsors of the committee bill to give a single example of an enterprise which would have been covered under last year's "affecting commerce" language which would not be covered under the "commerce" language of the present committee bill, apart from dollar volume considerations. I might say that no example could be cited because none exists. The present bill's concept of interstate commerce is just as far reaching as last year's "affecting commerce" language.

Therefore, in order to assure that my colleagues are fully aware of the situation, I offer my amendment to substitute the "affecting commerce" language of last year's bill for the "commerce" concept in the committee bill.

I might add that such a substitution would serve the further desirable purpose of using legislative terminology which has received extensive judicial interpretation over a period of many years and the meaning of which is now clearly understood, instead of new and untried language the meaning of which is clearly understood by no one and to establish which will require many years of interpretation and litigation.

Mr. President, I wish to read the paragraph which my amendment would amend. I invite the attention of Senators to the severity of the language which appears on page 14 of the bill commencing at line 5 and going through line 10, under subparagraph (s):

(s) "Enterprise engaged in commerce or in the production of goods for commerce" means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

Being a nonlawyer, but nevertheless having been exposed to these attempts for many years, I cannot conceive of any person working in this country that the language I have read would not cover.

The language is extremely broad, and includes employees handling, selling or otherwise working on goods that have been moved in or purchased for commerce by any person. I find it impossible to think of any gainfully employed person in this country who would not, by the enactment of this legislation, come under control of the Federal Government.

I wish to make perfectly clear that the language I propose to substitute for the language that I have just read I do not like either, but in not liking it, I know what I do not like.

Paragraph (s) on page 14 is a complete mystery, which I shall relate shortly. Even the attorney appearing for the AFL-CIO was not certain what it would do. But with respect to the language which I propose to substitute, there are court decisions which state that the language is as broad as the constitutional intent can be interpreted.

The language is as follows:

"Enterprise engaged in an activity affecting commerce" includes any activity, business, or industry in commerce or necessary to commerce or to the production of goods for, or the distribution of goods in commerce, and means any of the following which is engaged in any activity affecting commerce.

So the language "activity affecting commerce" becomes the key; and, as I have said, this is language of which we have judicial knowledge and interpretation. It is not new language. It has even caused lawyers on our committee considerable disturbance in realizing that they are not quite able to interpret just how far it goes.

I believe it is proper to recall some of the history of this act, and to point out to Senators what the original intent of the Fair Labor Standards Act was when it was passed in 1938.

II. HISTORY OF FAIR LABOR STANDARDS ACT AMENDMENTS

The enactment of the Walsh-Healey Act in 1936 provided that certain Government contracts must contain provisions for paying the prevailing rate of wages. This was the first attempt by the Congress to place a floor under wages in interstate commerce. Then on June 25, 1938, one of the Nation's basic labor laws was enacted—the Fair Labor Standards Act. This act set forth the statutory minimum wage, overtime pay requirements, and child labor provisions that cover employees engaged in interstate commerce or in the production of goods for interstate commerce.

The 1938 act set the Federal minimum wage rate at 25 cents an hour from October 1938 to October 1939, 30 cents from October 1939 to October 1945, and 40 cents after October 1945. The 40-cent level was established even prior to October 1945 through industry committees, groups composed of employers, employees, and public representatives who studied the wage situations of different industries and recommended the highest minimum, up to 40 cents an hour, that would not substantially curtail employment.

The Congress in adopting the Fair Labor Standards Act was concerned

with "eliminating labor conditions detrimental to the maintenance of minimum standards of living necessary to health, efficiency, and general well-being of workers."¹

It was not contemplated that this legislation would be applied to those already receiving wages far above the minimum which result from genuine free collective bargaining.

President Roosevelt, in asking Congress to enact the Fair Labor Standards Act, stated:

There are many purely local pursuits and services which no Federal legislation can effectively cover.²

Similarly, Senator Black—now Justice Black of the U.S. Supreme Court—who sponsored the original wage and hour bill in the Senate, said:

Businesses of a purely local type which serve a particular local community, and which do not send their products into the stream of interstate commerce, can be better regulated by the laws of the communities in which the business units operate.³

Now, Mr. President, to get back to the bill as reported by the committee. The bill sets certain limitations on dollar volume of business and extends the coverage to enterprises engaged in commerce or in the production of goods for commerce. I read the language:

"Enterprise engaged in commerce or in the production of goods for commerce" means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person.

As I have indicated earlier, in the bill that we worked on last year and which, in modified form, passed the Senate in the 86th Congress, the coverage embraced an enterprise engaged in any activity affecting commerce. As I have indicated, the phrase "affecting commerce" has been construed by the courts.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield.

Mr. COOPER. I do not wish to interrupt the train of the Senator's argument. I am sure the Senator will reach the point I raise, but I should like to ask a question.

Mr. GOLDWATER. Certainly.

Mr. COOPER. In the committee bill I read the definition:

"Enterprise engaged in commerce or in the production of goods for commerce" means any of the following in the activities of which employees are engaged, including employees handling, selling, or otherwise working on goods that have been moved in or are produced for commerce by any person.

As to the last part, "produced for commerce by any person," the courts, of course, have construed what commerce is.

Mr. GOLDWATER. Yes.

Mr. COOPER. They have construed what is meant by the production of

¹ "To Amend the Fair Labor Standards Act," hearings before the Subcommittee on Labor and Public Welfare, U.S. Senate, 86th Cong., 1st sess., May 8, 1959.

² Ibid., p. 151.

³ Ibid., p. 151.

goods for commerce. Could it be argued that the description of these activities is limited by the words at the end of the sentence, "or produced for commerce by any person"? In other words, could it be construed that the activities which describe enterprise which would be covered by the bill must be activities in the production of goods for commerce? Commerce, has been interpreted by the Court, and it seems to me that the activities named in this bill must fall within "the production of goods for commerce" or an enterprise engaged in "commerce" as interpreted by the Court. Could this be argued?

Mr. GOLDWATER. I do not believe so, and for this reason: All goods are produced for commerce. The dangerous language here is "that have been moved in."

For example, let us take a local garage which sells a hub cap. The hub cap, certainly, was produced outside the State, and came across State lines. It was made for commerce, as we understand commerce in its relationship to business, but the moment we apply "moved in" to this language, then the sale of the hub cap in the garage means that the garage can be interpreted as being engaged in interstate commerce.

Mr. COOPER. Does the argument of the Senator go to the literal definition of the word "commerce," the definition found in the dictionary, or is the Senator concerned with the term "commerce," in the sense construed by the courts? If we consider the committee definition in terms of the Court's construction of "commerce," I believe it can be said that the "activities" must fall within the scope of commerce as interpreted by the courts.

Mr. GOLDWATER. In the act, in section 3(b), I read:

"Commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

I believe I said that that was contained in the original act.

Therefore, even if we use the Court interpretation, or the idea that it is commerce as we relate it to the interstate commerce clause of the Constitution, it would still, in my opinion, broaden this language far more than the language contained in last year's bill, which gave everyone so much consternation.

Mr. COOPER. I remember. I ask whether the use of the word "commerce" in the bill reported by the committee, and "production of goods for commerce," might not provide a more limited definition of commerce than "enterprise engaged in an activity affecting commerce."

Mr. GOLDWATER. No. In my opinion, in the words "that have been moved in or produced for commerce," the words "have been moved in" are the words that make this definition so broad. We move these goods back and forth across State lines. A man who has an enterprise in two or more States certainly would come under any definition of commerce that we wish to apply. A man who does most

of his business across State lines would certainly come under the definition.

We are talking about the man who does a purely intrastate business. In my opinion, under this language he would be covered by the act. We have used in our arguments in committee many times the case of the laundry—I believe it is a laundry in Richmond—which does all of its business in the city of Richmond. Yet if we apply this language to that particular case, when the laundry buys soap or starch or bluing which has been moved in or produced for commerce, it comes under the interpretation of "enterprise" as contained in the bill.

Mr. COOPER. I see the Senator's point. He believes that the use of the word "commerce" in this section does not carry with it the interpretation of the term "commerce" by the courts.

Mr. GOLDWATER. The definition of "commerce" is already in the bill.

Mr. COOPER. But it has been interpreted by the courts.

Mr. GOLDWATER. And I read it to the Senator.

Mr. COOPER. Yes.

Mr. GOLDWATER. I believe that when we add the words "that have been moved in" we do the damage. There is no argument about what interstate commerce is or about what commerce is. There is doubt, however, about what it is when we put the words in front of that word, because by those words we include every piece of merchandise and every item that moves across State lines to be used in a purely intrastate activity.

Mr. COOPER. I do not wish to detain the Senator, because I know he desires to make his argument. This discussion brings to mind a point which has been debated during the consideration of the bill. Some Senators have said that stores or similar establishments are not in interstate commerce, under the decisions of the court, unless there is actual transmission of the goods in interstate commerce between branches of stores in more than one State. The argument is made, with respect to the Monroney amendment, that it is necessary to have establishments in two or more States.

I think the Senator will agree that this is too limited a view of interstate commerce. Many establishments in my State and in the Senator's State—single establishments—some of them doing \$50,000 or \$100,000 worth of business a year, are now under the Minimum Wage Act because their business, even though it is only \$50,000 or \$100,000, is in, or has impact on, interstate commerce.

Mr. GOLDWATER. Under the present law, there is coverage only if the goods are to be moved in commerce. While we are providing in the pending bill that the goods must have been moved in commerce, under the bill there is coverage of the goods that have been moved across State lines. Therefore, if we take this language, we broaden the interpretation of the Supreme Court, which has held that activity affecting commerce is the yardstick to be used. The language of the bill goes far beyond

that; in fact, the very fact that a distinguished lawyer like the Senator from Kentucky [Mr. COOPER] finds difficulty in understanding it, and distinguished lawyers with whom I have talked all over the country, by telephone and in person, can give us no guess as to what it means, indicates the need for the change.

As I said earlier, I am not enamored of the language of last year's bill; but certainly it is the lesser of two evils, because we know what the Supreme Court will say about activities affecting commerce. We do not know what the court will say, because this proposal has never been tested. Confronted with, we might say, a dangerous area, I do not believe we should embark upon new language in the hope that the Supreme Court will interpret it this way, that way, or the other way.

Mr. LAUSCHE. Mr. President, will the Senator from Arizona yield?

Mr. GOLDWATER. I yield.

Mr. LAUSCHE. I comment upon the statement made by the Senator from Kentucky. It is my understanding that the present minimum wage law, as it applies to an employer, sometimes applies to workers who are engaged in interstate commerce and to others who are not. If a worker is dealing with items which have come to rest, which have terminated their movement, that worker is dealing with a product which is in intrastate commerce. But the other workers, who are still in the process of handling the merchandise as it came across the State line, and are finally putting it to a state of rest, are engaged in interstate commerce.

Mr. GOLDWATER. The Senator is absolutely correct.

Mr. LAUSCHE. The language of the bill contemplates putting every worker under Federal regulation, whether he is working upon merchandise which has come to rest and is no longer in movement, or upon merchandise which is still in the process of being transported.

Mr. GOLDWATER. The Senator is correct.

Mr. LAUSCHE. That is my interpretation of the language used in the bill. So the bill now provides that if a person works upon items which were in movement, although they are no longer being moved, he is covered.

Mr. GOLDWATER. The Senator is correct. I may say to the Senator from Ohio that any employee who has handled the merchandise, who has sold any merchandise, or is otherwise working on the goods, would be working on goods that have been moved, and would come under the definition of "commerce" in the present bill.

Mr. LAUSCHE. I think the precise way of approaching the problem is through those two descriptions: First, goods which have been moved; second, goods which are being moved. Under the existing law, to constitute minimum wage coverage under the Federal law, the worker must be devoting his efforts to goods which are being moved.

Mr. GOLDWATER. The Senator is correct.

Mr. LAUSCHE. Under the new provision, even though the goods came to rest and were no longer being moved, the worker still would be connected with interstate commerce.

Mr. GOLDWATER. The Senator is absolutely correct. He has pointed out what to me is the most objectionable feature of the bill. It is not that there is great doubt about what it will do or how far it will extend itself. To me the language is perfectly plain: It extremely broadens the already broad interpretation of the powers under the Interstate Commerce clause.

Mr. BUTLER. Mr. President, will the Senator from Arizona yield?

Mr. GOLDWATER. I yield.

Mr. BUTLER. I hope the Senator from Ohio will listen to the question. Is it fair to say that under the language of the bill the mere fact of employment constitutes commerce, and that then Congress shall say which employment shall or shall not be covered?

Mr. GOLDWATER. Will the Senator state his question again?

Mr. BUTLER. The mere fact that goods find their way to the shelf of the corner grocer means that they must have been moved in commerce. So the mere fact of employment would put everyone under commerce, and then it would be up to Congress to say which goods shall be exempt.

Mr. GOLDWATER. If the employee is employed to handle, sell, or otherwise assist in marketing the goods, yes.

Mr. BUTLER. Also, the bill contains the language "affecting commerce."

Mr. GOLDWATER. No, that is not in this year's bill. My amendment would restore "affecting commerce," although I am not enamored of the "affecting" language.

Mr. BUTLER. Then it would be accurate to say that the mere fact that almost any worker is employed puts him in commerce, and Congress would then have to say which person shall be exempt and which one shall not be exempt.

Mr. GOLDWATER. The Senator is absolutely correct. At this time, I might, for the edification of Senators who have been querying me, read a colloquy which was developed in one of the committee hearings between Mr. Meiklejohn, legislative representative of the AFL-CIO, and myself.

Senator GOLDWATER. Mr. Meiklejohn, I want to get back to this enterprise question.

I thing we all agree that the Supreme Court statements or the present definitions of "affecting commerce" are as broad as they can be made. Now, will you tell me the difference between "affecting commerce" and "enterprise" as described in subsections on page 3?

Mr. MEIKLEJOHN. I am not sure that I can do so in any definitive way, Senator. I would remind the committee that the bill is not a bill which we have had any part in drafting. Therefore, I do not think I could give you any authoritative explanation of what this bill covers. It seems to me that that should more properly come from the Department of Labor, which, I take it, had the primary responsibility in the drafting of the bill.

Senator GOLDWATER. You are a lawyer. Is this definition narrower than the Supreme Court decision?

Mr. MEIKLEJOHN. I would say that in some areas it may be broader, and in others it may be narrower, Senator. I think it is substantially similar.

Senator GOLDWATER. If you think it is substantially similar, then why would you object to having the "affecting" language in it?

Mr. MEIKLEJOHN. The "affecting commerce" language?

Senator GOLDWATER. Yes.

Mr. MEIKLEJOHN. We would not object to that. We have supported legislation for many years in which we have urged Congress to extend coverage of the act to employees who work in industry affecting commerce.

Senator GOLDWATER. So you would have no objection to using the language that was in the last year's bill?

Mr. MEIKLEJOHN. No, indeed.

Senator GOLDWATER. So, in effect, there is no difference?

Mr. MEIKLEJOHN. We argued, in support of that, Senator, that it would be desirable to use that concept, because it was a concept that had been used in other labor statutes. It was, therefore, one as to which there had been definitive court decisions so that people would know what the scope of the act was.

Senator GOLDWATER. So there is actually in your mind no difference between the two?

Mr. MEIKLEJOHN. I won't say there is no difference between the two, because there has not heretofore been in the law the concept of the enterprise engaged in commerce or in the production of goods for commerce.

That was an exchange between a lawyer and a nonlawyer, the lawyer being very well versed and learned in labor law. A little later, the following colloquy took place:

Senator GOLDWATER. Do you see any reason for putting it into the law?

Mr. MEIKLEJOHN. Let me add one further point to what I said a moment ago.

There have, of course, been many court decisions in the lower Federal courts, the Supreme Court and the State courts, which have interpreted the present scope of the act under which employees are covered if they, as individual employees, are engaged in commerce, or in the production of goods for commerce. So, we have a large body of judicial opinion on the scope of the phrase in this definition which is the critical one in determining whether an enterprise is one that is engaged in commerce or in the production of goods for commerce.

Mr. BUTLER. Mr. President, will the Senator from Arizona yield?

The PRESIDING OFFICER (Mr. METCALF in the chair). Does the Senator from Arizona yield to the Senator from Maryland?

Mr. GOLDWATER. I am happy to yield.

Mr. BUTLER. Can the Senator from Arizona think of any employment in which something that is used by the employees was not transported across a State line at some time or other?

Mr. GOLDWATER. No; and that is what I have been maintaining.

Mr. BUTLER. Therefore, almost by virtue of the fact of employment alone, the commerce clause could be tossed out of the Constitution, and the workers would be told, "The fact that you are employed puts you in commerce." Then the question would be which ones would be covered and which ones would not be covered.

Mr. GOLDWATER. I think the Senator from Maryland is correct. I cannot think of a single employee engaged in

any business who would not be affected by this proposal.

Mr. BUTLER. Any employee who used a piece of paper or a pencil or something else that had been transported.

Mr. GOLDWATER. Of course.

Mr. BUTLER. That is not the concept of constitutional government that I have been brought up to know; and I think that if all Senators will examine their consciences, insofar as this provision is concerned, many of them will arrive at the conclusion that it is not the type of constitutional law to which we have been accustomed. This proposed language would simply toss the commerce clause entirely out of the Constitution of the United States.

Mr. GOLDWATER. I thank the Senator from Maryland for his contributions.

Mr. President, the presence of this maximum coverage concept in that bill gave rise to serious concern on the part of many Members of Congress, and resulted in more protracted and intensive debate than occurred in connection with any other aspect of the bill. The present committee bill drops the phrase "affecting commerce"; but in replacing it with the definition of "enterprise engaged in commerce," and so forth, the pending bill actually substitutes for the phrase "affecting commerce" a concept which, in my opinion, is even broader in scope. Thus, for example, if the only goods which have been produced or moved in interstate commerce were so produced or moved 5 years before they were sold by the enterprise, and if no other activity of the enterprise had even the remotest impact on, or relationship to, interstate commerce, the enterprise would, nevertheless, be covered if it met the other requirements as to dollar volume.

The National Labor Relations Board, in applying its statutory test of affecting commerce to determine whether it has jurisdiction under title I of the Taft-Hartley Act, bases its determination on the activities affecting commerce engaged in by the employer during the preceding year. If the only activities of that kind engaged in by the employer occurred prior to that period, the Board recognizes that it has no jurisdiction. This method of determining its jurisdiction has never been overruled by the courts.

As I said earlier, even among the most devoted supporters of the committee bill, there is a lack of precise knowledge about the coverage of the bill.

I have already inserted in the RECORD the colloquy I had with Mr. Meiklejohn; but I shall comment briefly on it as follows:

As that colloquy indicates, the committee bill's interstate commerce provision presents an initial difficulty which is wholly unnecessary if what the sponsors of the bill intended was coverage equivalent to that given by the phrase "affecting commerce." They have written new and untried language, wholly lacking in judicial interpretation, which will give rise to, and will require, extensive litigation before its meaning becomes clear,

leaving in a state of uncertainty for a protracted period those who might be affected.

If the language of the committee bill is substantially equivalent to affecting commerce, as Mr. Meiklejohn speculated, or is even broader in scope, as I believe, additional problems and difficulties will be created.

Congress has drawn definite boundaries within which it intended minimum wage protection to be applied. To expand those boundaries indefinitely would obliterate any distinction under the law between interstate commerce and intrastate commerce. This new coverage provision would give the Federal Government drastically broad authority over local businesses and intrastate businesses. Furthermore, because of this deep Federal encroachment into the intrastate commerce of the States, serious questions are raised about the constitutionality of the new coverage proposals in the area of wage regulation. It is true that the Supreme Court has sustained the constitutionality of broad Federal jurisdiction in the National Labor Relations Act, which deals with labor disputes which Congress has found to constitute a burden on, an interruption of, or an interference with interstate commerce. But there are serious questions as to whether such broad Federal jurisdiction is equally lawful in an area such as that of the regulation of peacetime wages.

The contrast in scope between the new proposals and the present jurisdictional standards of the Fair Labor Standards Act is so great as to be shocking. The present law applies only to employees who actually engaged in interstate commerce or in the production of goods for interstate commerce. The proposed coverage would regulate the wages of many employees whose connection with interstate commerce is either remote or nonexistent.

In analyzing the scope of the new coverage proposed by last year's bill, S. 1046, Mr. Eugene B. Sydnor, president of Southern Department Stores, Inc., a member of the Virginia State Senate, when speaking for the Chamber of Commerce of the United States, made the following statement:

As a State legislator I am very conscious of the provisions of the Federal Constitution that assign to the Federal Government in fields of business and trade control of interstate commerce.

Under our constitutional form of government, powers not delegated to the Federal Government are reserved to the States and these include supervision of local or intrastate commerce.

However, S. 1046 proposes by Federal action to apply nationwide uniform regulations to these basically local activities, and if enacted could mark the passing of the last frontier between the proper legal functions of State governments and an all-powerful Federal bureaucracy constantly extending its power.

Furthermore, another extremely undesirable nature of the fundamental change proposed by S. 1046, is involved in the fact that 29 State governments have already enacted minimum wage laws which properly concern intrastate and local trade.

It, therefore, cannot be said that this is a field in which the States have failed to act. It would appear that supporters of S.

1046 propose this drastic change in the relationship between State and Federal Governments since they wish to force one overall standard on all business and trade no matter how widely needs and conditions vary in each of our 50 States.

I firmly believe that the State legislatures are the proper bodies to take any necessary action and correct any inequities that may exist in this field.

He further stated that extended coverage would jeopardize employment opportunities in retail and service trades. I shall not go into that matter at this point, because I wish to confine my discussion at this time primarily to the amendment that is before the Senate.

As I said earlier, to me, this is the most damaging part of this bill. The dollars-and-cents factor has its place in the argument. The possible unemployment factor certainly has its place in the argument. The possible effect on inflation certainly must be considered by all of us as we act on this measure. But when there is included in a bill which is described as applying to enterprises engaged in commerce, new language that never has been passed upon or judged and never has been tried, and which indicates to one who reads it that it will result in an almost complete obliteration of the interstate commerce clause, by enabling the Federal Government to move into the States and regulate intrastate or purely local businesses, I believe we must proceed very, very cautiously. Thus, Mr. President, my effort has been to attempt to point out, in my limited way, the dangers inherent in this particular portion of the bill.

Let me repeat that it was at this precise point that we, in effect, stubbed our toes last year, when an attempt was made to have the Congress pass a bill giving extended coverage to the minimum wage law.

This, I think, is worse than the one we had last year. That is why I am offering to substitute, in my amendment, the language of last year, even though, as I say, it is not language of which I am fond. I think it would be far better, wiser, and safer to proceed with language we know something about than to proceed with language we know nothing about.

Therefore, I urge the Senate to take my amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested.

The yeas and nays were ordered.

Mr. McNAMARA. Mr. President, in reply to the request of the Senator from Arizona that we take his amendment, I would say we could not very well take the amendment, because to do so would bring us back to the language with which we have had so much trouble repeatedly. The Senator has repeatedly pointed out that the phrase "affecting commerce" is the one that practically wrecked the conference last year.

The language in our bill is much closer to the language in the existing law now. It is almost the same as the existing law. On that basis, we would certainly be in no position to accept the amendment offered by the Senator from Arizona.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. McNAMARA. I am happy to yield.

Mr. GOLDWATER. I cannot quite agree that the language contained in subparagraph (s) is identical with the language already in the act.

Mr. McNAMARA. I did not say it was the exact language.

Mr. GOLDWATER. It starts out the same way. Then it loses all similarity. It ends up with a complete reversal of the interpretation of what "commerce" is.

I would like the Senator to give me a single instance of an interpretation affecting commerce in last year's bill which would not be covered under the present bill from the committee.

Mr. McNAMARA. I did not say this was the exact language. I said it was much closer to the language. I cannot give the Senator an example of the instance of which he speaks.

With regard to the point made by the Senator from Ohio, with relation to covering goods traveling in interstate commerce, I point out to the Senator from Arizona that we have the addition of the Prouty amendment now, which requires that at least \$250,000 worth of goods must have moved across State lines.

Mr. GOLDWATER. I am fully aware of that fact, but, as I said last night in the colloquy with the Senator from Michigan, I do not think it bears on this particular point, because we get into language we have never tried to use before, in defining "commerce," when we say goods that have been moved. We have always accepted the idea that a manufacturer, for example, in Michigan, making hub caps, or cars, which are going to be sold in Arizona, certainly is engaged in interstate commerce; but we have never regarded the man who sells the hub caps, or the cars, as being in interstate commerce. However, he would be under the provisions of the language proposed by the Senator.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. McNAMARA. I yield.

Mr. CLARK. I think the Senator from Arizona has, as he always does, raised an interesting point. I take it he would agree with me that there is no constitutional question involved, regardless of whether the language in the bill as reported by the committee or the language proposed by the Senator from Arizona should be the final result.

Mr. GOLDWATER. I could not give the Senator an honest legal answer to that question, because, frankly, I do not know. I would say anything that has any effect on the language of the Constitution or the intent of the Constitution would affect the Constitution. As I have said, my lack of legal knowledge prevents me from saying "yes" or "no" to the question of the Senator. I have to put an "if" in my answer.

Mr. CLARK. Will the Senator yield further, unless the Senator prefers me to take the floor in my own right, because I would like to make a statement.

Mr. GOLDWATER. I do not have the floor.

Mr. CLARK. The Senator from Michigan has been kind enough to yield the floor to me, briefly.

I think it should be said, on behalf of the committee, in amplification of what the chairman of the subcommittee has said, that it is our view, and that of our legal advisers, as I said on the floor last night, that no constitutional question arises in connection with the debate on the bill. There is very clear constitutional authority to cover into the act all the industries intended to be covered under the bill. This fact appears very clearly indeed from the discussion in the committee report, beginning on page 4, which has been made available to all Members of the Senate, and is emphasized in the language in the committee report by reference to the case of *United States v. Darby Lumber Company*, 312 U.S. 100.

Our position, therefore, is that there is no constitutional question involved. It becomes a matter of policy and a matter of judgment as to what phraseology it is desired to use in limiting and determining who shall come under the coverage of the act, in terms of the individuals entitled to be paid the minimum wage and in terms of the industries in which those workers are employed.

The committee has felt that the language in the committee bill which has to do with an enterprise engaged in commerce, or in the production of goods for commerce, is wiser and better phraseology than the language "affecting commerce," suggested by the distinguished Senator from Arizona.

It is true, as the distinguished Senator from Arizona has said, that last year the bill did use the phraseology "affecting commerce." It was bitterly attacked on the floor of the Senate by many of the same Senators who, I suspect, will now vote to reinstate that language in the act. I think some of us felt that the argument made by those Senators last year had a certain amount of merit in it; and, after further consideration, it was determined to go back to the language of the bill as presently written.

The language of the present bill, to be sure, is not identical with the language in the original Minimum Wage Act of 1938, but is very close, indeed, to it; and I read from section 6(a) of the 1938 act:

Every employer shall pay to each of his employees who is engaged in commerce or the production of goods for commerce wages in the following rates—

That language is substantially that of the bill as reported from the committee. As is pointed out in the committee report, again on page 4:

All of these provisions have been held to be a proper exercise of the constitutional authority time and time again during the 22 years that the law has been on the statute books, so that no doubt now exists as to the propriety of congressional action within this area.

In the last analysis, on this vote, I think Senators must make up their minds whether, in their judgment, the

phraseology, technical though it is, composed by a very large majority of the committee, supported by the opinion of the legal staff, is better language than that suggested by the Senator from Arizona.

I say again that the committee was of a different view last year, but, like many a fine lady before and after, the committee reserves the right to change its mind. The committee has changed its mind, influenced in no small measure by the debate in the Senate last year.

Accordingly, I hope that the amendment of the Senator from Arizona will be rejected.

Mr. PASTORE rose.

Mr. CLARK. I yield to the Senator from Rhode Island.

Mr. PASTORE. Is the Senator from Pennsylvania actually saying that the language as reported by the committee could be construed as to be included in the interpretation of the amendment as proposed by the distinguished Senator from Arizona, but that the committee language is preferable and more acceptable for the reason that it is much more explicit and says particularly what "affecting commerce" is, under the terms of the bill?

Mr. CLARK. I should like to be able to give a noncategorical affirmative answer to that question, but it is a question which is a little more subtle. I will say that the phrase "affecting commerce" has also been much construed in the courts, although not in regard to this bill. The language the committee brings forth is language substantially identical with that in the original act of 1938, which has been sustained by the courts. We believe the language is preferable to the language suggested by the Senator from Arizona.

Mr. PASTORE. The only reason I make the observation is that I understand the Senator from Arizona said the language, as used in the bill, could be interpreted as meaning "affecting commerce," according to his amendment. I think the Senator said that.

Mr. GOLDWATER. The Senator is correct.

Mr. PASTORE. If that is the case, what are we quibbling about?

Mr. GOLDWATER. The Senator raises a very good point.

Mr. CLARK. I yield to the Senator.

Mr. GOLDWATER. Last year the language proposed was the cause of much argument. The Senator correctly asks, What are we quibbling about? That is what I have said all along. I have offered the language to which there was objection last year because the courts have already interpreted that language. It is not new language.

I have talked to many lawyers in this regard. Lawyers testified before the committee. I think even members of the staff will agree that substantially the same thing would be accomplished.

The language in the bill before the Senate is, "goods that have been moved in or produced for commerce." That language is far different from the language which has been interpreted by the courts for 25 years.

Mr. PASTORE. I realize how the Senator from Arizona feels about the bill, and the Senator has a perfect right to feel the way he does. I am not a member of the committee, but I have been present in the Chamber listening to the discussions which have taken place.

I understand the only reason why the committee came forth with the new language, which is more explicit, is that last year there was more or less a controversy and a dispute in conference as to the meaning of the original language.

Mr. CLARK. If the Senator will permit me to speak for a moment—

Mr. PASTORE. In order to avoid that controversy and in order to join issue, if we all agree that we are saying the same thing in a different way but that the language as now proposed is much more explicit and will avoid a further controversy in conference, why not take the more simple and more easy way out?

Mr. CLARK. What the Senator says is entirely correct. In addition, the language in the committee bill is not new language. It is contained in the Minimum Wage Act passed in 1938.

Mr. PASTORE. Be that as it may, the fact is this is the first time the language is proposed, is it not?

Mr. CLARK. No. The language is in the act which was passed in 1938. It is the same as the language in the original Minimum Wage Act. We think we are being more conservative by going back to the language, as opposed to taking the "affecting commerce" language out of another act.

Mr. PASTORE. This language has already been interpreted by the courts, has it not?

Mr. CLARK. The Senator is correct.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. CLARK. I yield the floor.

Mr. GOLDWATER. I should like to clear this up a bit.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, if I correctly understood, it has been said that the language is identical with the language in the original bill.

Mr. PASTORE. With the exception of the word "selling."

Mr. CLARK. That is correct.

Mr. PASTORE. With the exception of the word "selling."

Mr. GOLDWATER. I shall read the language of the original bill, from section 6(a):

Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce—

The new language includes—
handling, selling, or otherwise working on goods that have been moved in.

The original intent of the language was what we all agree is interstate commerce. When a factory made something which was going to be moved across State lines, or when a selling firm had businesses in two or more States, there was no argument about what "affecting commerce" language meant. Everybody knew what was meant.

The broadness is what was objected to. There is no doubt about what "affecting commerce" means. What we are worried about is that we may be embarking now on a new definition which is much broader than even the term "affecting commerce," which the Supreme Court has said can be given an interpretation as broad as it can imagine.

I agree with the Senator from Rhode Island, there is not a lot of difference. Why not take the provision with respect to which we have the ruling of the court, with respect to which we know where we stand, on grounds which have been used in the past?

I am not in love with it, I say to the Senator, but it is the lesser of two evils.

Mr. PASTORE. Is it not the Senator's position that he is urging his own amendment for the reason that such "activity" may not be considered to be "in commerce"? The fact that a person is selling merchandise which may have originated in interstate commerce may not be considered to make it "in commerce." Is that not what the Senator is hoping will be the interpretation of the courts?

Mr. GOLDWATER. No; not at all. There is no question in my mind about what interstate commerce is, or when selling or handling in interstate commerce is involved. There is no question about that. That is very clear.

Mr. PASTORE. I should like to ask a further question. Let us assume that a retail establishment has an annual gross business volume of a million dollars and let us assume that \$250,000 of the merchandise has originated in and been identified in interstate commerce. Is the Senator willing to agree that the court will interpret the whole million dollars worth of business is in interstate commerce and can be regulated?

Mr. GOLDWATER. I cannot say how the courts will interpret. That is why I have offered the language with respect to which we know what the courts have said. We do not know what the courts will do with respect to other language.

Mr. PASTORE. It is my understanding that the purpose of the committee, in proposing the new language and making it as explicit as it did, was to guarantee that insofar as legislative action is concerned an establishment which deals in a million dollars' worth of merchandise, and has only, let us say, \$250,000 of it moving in interstate commerce, would be regulated under the interstate commerce clause.

Mr. GOLDWATER. I believe that the purpose of the committee in writing the language this way was to avoid any argument in the Senate this year. If the committee had proposed language which was not as broad as the language was last year, I think the committee would have accomplished its desire, but in my humble opinion this language is broader, and can be immediately seen as being broader, than the language to which we objected last year, which is the language I have suggested we use to replace the particular subsection.

This points out another difficulty in regard to passage of proposed legislation such as this. If we are going to pass a bill, I lean favorably toward the sug-

gestion of the Senator from Georgia, that we proceed to consider the wage part of the bill and then look at the rest of the whole complicated problem, with respect to exempting one group and including another group.

The measure seems to be thrown into quite a hodgepodge, and is quite different from the original intent.

Mr. PASTORE. The only reason why I injected myself into the controversy—and, I say again, I do not wish to labor the point—is that I thought there was an agreement in substance, and merely a divergence in point of view as to how to state the language. I am convinced now, after having listened to the Senator from Arizona, that there is a disagreement as to substance.

Mr. GOLDWATER. There is a very violent disagreement, I will say, because of the inclusion of the language, when we have no idea what will be the effect.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. GOLDWATER. I am happy to yield.

Mr. HOLLAND. Is it not true that the definitions included in the bill now pending before the Senate, while they carry over wording which is in the present law, likewise add other wording which is not in the present law and which is of such nature as to add a field of jurisdiction which has been specifically excluded from the operation of the present law by the decisions of the Supreme Court?

Mr. GOLDWATER. The Senator is correct, as I understand, because in the original act—

Mr. HOLLAND. Will the Senator from Arizona yield to me further?

Mr. GOLDWATER. I yield.

Mr. HOLLAND. My point, which I think the Senator from Rhode Island, who is a learned attorney, will follow, is that the present law contains a subsection describing the field which is covered.

Subsection (a) of section 6 of the present act provides:

Every employer shall pay to each of his employees who is engaged in commerce or in the production of goods for commerce wages at the following rates—

The definition is—

"engaged in commerce or in the production of goods for commerce."

Those words are contained in the proposed law, but they are added to very greatly. On page 14 of the printing of the present bill, beginning at line 5, appear the words that define the field to which this act would apply:

(s) "Enterprise engaged in commerce or in the production of goods for commerce" means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person.

The Supreme Court has specifically excluded from the operation of the present law goods which, though they have been moved in interstate commerce, have come to rest in a particular State, and thereby have come under the operation of the laws of that State.

Apparently there has been no willingness by the proponents of this definition to recognize that it is drawn so as to wipe out the decision of the Supreme Court. The proposed legislation, if enacted, would operate in such a way as to bring into the law those who are handling goods that have come to rest within a State, and who, under interpretations of the law up to the present time, would not be under the jurisdiction of the Federal law.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield.

Mr. PASTORE. As I understand, what the Senator has stated is exactly what the committee is trying to do. They are trying to broaden the coverage. I do not think anyone is trying to connive or engage in an evil conspiracy, but what we are trying to do is to enact the Kennedy program. President Kennedy wishes to broaden the coverage, and if we intend to broaden the coverage under the existing law we should broaden the existing law. While we are following the same tone of expression as was instituted in the present law, we should add something to it in order to provide broader coverage. If any Senator wishes to stand on this floor and say that we are using the same language now that we have used heretofore when it is the intention to broaden something, then, of course, he is talking at cross purposes. The law must be changed if we wish to change the circumstances, and that is what is proposed.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield.

Mr. HOLLAND. If the Senator will yield further to me, I heard the distinguished Senator from Pennsylvania [Mr. CLARK] state only a few minutes ago on this floor that the proposed legislation used the same identical definition that is included in the original law and in the present law. That representation could not have been based upon a real understanding of what is involved, because now we have the learned lawyer from Rhode Island, who so ably represents his State in part, admitting what a casual reading of the act would bring out, that it proposes to wipe out decisions of the Supreme Court which have stated specifically that goods transported across State lines and which had come to rest within a State then become subject to the jurisdiction of State law, and that those handling such goods, from then on are not subject to the provisions of the Federal wage-and-hour law. The Senator from Rhode Island, with his accustomed candor, has admitted now that what is sought to be done by this new and enlarged definition is to bring into the coverage of this law people handling goods which are sought to be made subject now to interstate commerce, when they were not under the provisions of the earlier law and under the decisions of the Supreme Court, based upon that law.

Mr. GOLDWATER. Mr. President—

The PRESIDING OFFICER (Mr. PELL in the chair). The Senator from Arizona has the floor.

Mr. GOLDWATER. The Senator from Rhode Island said that the new proposed language would extend coverage. That is not so. We can extend coverage under the language contained in the act. We can extend the coverage to every worker in the United States and yet not touch the paragraph about which I am speaking.

Mr. PASTORE. It will have to be done in one form or another. The purpose of adding the word "selling" is to bring the whole body of retailers under the law, provided they have a turnover of \$1 million, and provided furthermore that a quarter of a million at least are goods identifiable as goods in interstate commerce.

Mr. GOLDWATER. We need not do that. All we need to do is to change the exemption part of the act, and we can bring in everybody in the United States.

Mr. PASTORE. The point the Senator from Rhode Island wishes to make is, If something must be changed, what is wrong with changing this provision? What we wish to do is to accomplish an objective. As I understand, the Senator from Arizona—and I do not say this with any impertinence, and I hope he so understands—is absolutely against the bill. He does not want to amend it in any way. He wants it defeated.

Mr. GOLDWATER. The Senator is absolutely correct.

Mr. METCALF. Mr. President, will the Senator from Florida yield to me?

Mr. HOLLAND. I yield.

Mr. METCALF. I point out to the Senator from Florida that there is another definition in the bill, on page 52 of the report. The word "produce" is defined. It means "produced, manufactured, mined, handled, or in any other manner worked on in any other State."

The whole point of this additional amendment in this more precise language is, as the Senator from Pennsylvania [Mr. CLARK] pointed out, to create a policy decision so as to be sure that we shall have a law that will cover these additional retail employees. As the Senator from Florida pointed out, the Supreme Court in interpreting the previous legislation has said that retail employees are not covered, but the Court did not interpret the law as a part of a constitutional interpretation. It merely interpreted and analyzed the legislative language.

The courts have repeatedly held in dozens of decisions in respect to the Fair Labor Standards Act that this chapter was not intended to regulate the entire field of interstate commerce, which Congress may constitutionally regulate, and that Congress did not, in the enactment of this chapter, intend to exercise the full extent of its constitutional power.

The Court has held that Congress, in enacting a limiting law, left out the retail employees, but now we have the precise language necessary to incorporate that provision into the bill, and there is no constitutional question involved. The courts will continue to hold that we were within our constitutional power. That is the point the Senator

from Pennsylvania was making when he pointed out that the policy decision is for Congress to write into the legislation, and is not a decision that would subject the legislation to a constitutional question by the Supreme Court of the United States.

Mr. HOLLAND. Mr. President, I appreciate the comment of the distinguished Senator from Montana. I am sorry that the Senator from Pennsylvania is not here because he is the one whose statement went so far afield as to the actual words incorporated in the act and as to the meaning of those words.

Last year I stood on the floor of the Senate and argued as strongly as I was able to argue against the inclusion of the words "affecting commerce," because those words had been used not in an act of this kind, which had been interpreted by the Court, but in acts which had to do with impeding the flow of goods freely in interstate commerce. Therefore I certainly cannot at this time even pretend to approve the substitution of those words in the bill before the Senate.

I honor the Senator from Arizona [Mr. GOLDWATER] in calling the attention of the Senate to a fact which it must now know, because this "cat had not been let out of the bag" until now, that we are faced with a definition much wider, much broader, and much bigger than the words "affecting commerce," which were in the bill last year.

In addition, words are included in the bill which are deliberately intended to get around the Supreme Court decisions and to bring the coverage of the act to people in industries who have been specifically excluded by repeated decisions of the Supreme Court.

We know that that is one of the intentions of the proposed act. I therefore pay my tribute to the distinguished Senator from Arizona for having brought out this point. It took a long time to smoke it out, but it has now been smoked out, and it is clear what is intended. It is not intended merely to cover retail trade.

I must say to my distinguished friend the Senator from Montana [Mr. METCALF] that he is almost as badly mistaken as is the Senator from Pennsylvania [Mr. CLARK] with respect to the exclusion of retail trade under the prior act. What they have said is not correct. Retail trade was excluded only when it did not operate in interstate commerce to more than a certain degree. Many of the operators in retail trade were included and covered; for example, operators who sell by mail, like Montgomery Ward and Sears, Roebuck, and dozens of other such concerns. They were covered. Also included were operators who operate within State lines but who sell part of their product in one State and part of it in another State.

The act contains specific figures as to what percentage of retail business a company could do within a single State and still remain exempt from the act.

As to service industries, the same thing was true.

The words in the present law exclude, for example, laundries, but not all laundries. Laundries in my State which ex-

clusively work on the laundry of the Pullman Co. are not exempt under the provisions of the act. Why? Because the act so provides. They are in interstate commerce.

Therefore the Senator from Montana was not correct in his statement that retail industry is excluded under the present law. Certain parts are excluded. They were excluded because in the judgment of Congress those that are entirely or very largely local have an operation which is not subject to the same philosophy as are businesses which operate in the channel of interstate commerce. They operate and serve patrons of certain traditions and customs and expectations and habits. They operate with certain employees who may or may not have to live up to the exacting requirements of factory employees. They operate under the good will of the community which they serve, which they cannot retain unless they serve well and treat their employees well.

So Congress, in its judgment, exempted that class of retail business, but only that class of retail business. It is in failing to realize that fact that the Senator from Montana has slipped into error.

So now it is thought that we had better exclude all of the philosophy that has prevailed heretofore; that we had better decide that all local businesses, no matter how small, may be subjected to the philosophy of this act and to the general definitions of this act; but that for the time being we will bring under the act only employees who happen to work for firms that do a certain volume of business.

If Congress wants to open the door to the stretching out of the long arm of the Federal Government, so that very soon it may be so used as to regulate the commerce of every business of this nation, so as to regulate employees and employers in every business in the Nation, so as to violate entirely the concept that certain businesses are in the stream of interstate commerce or Federal business, and others are in the stream of local businesses and services, it can do so. However, I believe it would be a tragic mistake to do it, particularly when we are overburdened, and when the only object seems to be to increase the tremendous burden of the Federal Government in such a way as to make it possible for the Federal Government to control every business, every employer, and every employee in the length and breadth of this Nation.

With regret I say that I cannot vote for the amendment of the distinguished Senator from Arizona [Mr. GOLDWATER]. However I pay my tribute to him for having honestly faced the situation which is embodied in the bill and for having now effectively called attention to the facts involved and to the definition in the bill, which are infinitely more dangerous than the ones in the bill of last year. I pay my tribute to him.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. GOLDWATER. I thank the Senator for his kind remarks. Candidly, I never had much hope that my

amendment would be voted upon favorably. However, we shall have some other chances. There is the Dirksen substitute that will come before us. Then there are the Monroney amendment, the Russell amendment, and the Holland amendment, as well as other amendments that will be offered. We shall have another opportunity to get at this very dangerous language in the bill.

Therefore, regardless of how many votes my amendment gets or fails to get, I will not be disappointed, or displeased.

I am happy to have had the opportunity to point out to the Senate the very dangerous language contained in the proposed legislation. I am hopeful that at some time during the proceedings an amendment affecting this language will be successful.

I ask unanimous consent to have printed in the RECORD at this point in my remarks a paper prepared by Mary Louise Ramsey, legislative attorney of the Legislative Reference Service in reference to the constitutional question involved in the matter we are discussing.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS,
LEGISLATIVE REFERENCE SERVICE,
Washington D.C., March 28, 1961.

To: Hon. SPESSARD L. HOLLAND.

Attention: Mr. Norman.

From: American Law Division.

Subject: S. 895, 87th Congress—Fair Labor Standards Act.

Under H.R. 3935, 87th Congress, the coverage of the Fair Labor Standards Act would be extended to employees in an "enterprise engaged in commerce or in the production of goods for commerce." Thus it differs from S. 3758, 86th Congress, which extended coverage to persons employed in an enterprise engaged in an activity affecting commerce.

The constitutional justification for regulating activities which are not themselves a part of interstate or foreign commerce is that they have such an effect on that commerce that they must be regulated to make the regulation of interstate or foreign commerce effective. *NLRB v. Jones & Laughlin Steel Corporation*, 301 U.S. 1 (1937). The regulation of wages and hours of work of employees engaged in the production of goods for commerce is permitted because of the effect of labor conditions in such production of goods upon interstate commerce. *United States v. Darby*, 312 U.S. 100 (1941). Standing alone, the phrase "engaged in commerce or in the production of goods for commerce" is narrower than the phrase "affecting commerce." *McLeon v. Threlkeld*, 319 U.S. 491 (1943). The former is the term now used in the Fair Labor Standards Act to designate employees subject to the act. The Supreme Court has held it to be constitutional, *United States v. Darby*, *supra*. The term "affecting commerce" is used in other statutes, e.g., the National Labor Relations Act, to define the reach of Federal regulation and it too has been held constitutional. *NLRB v. Jones & Laughlin Steel Corporation*, *supra*.

But the definition in H.R. 3935, "enterprise engaged in commerce or in the production of goods for commerce" is extended to include an enterprise or establishment in which one or more employees is engaged in handling, selling or otherwise working on goods that have been moved in or produced for commerce by any person in the circumstances stated. The handling or selling of goods

after they have been produced, or after the interstate movement has ceased, does not constitute either commerce or the production of goods for commerce. But such activities may affect commerce. To the extent that the activities covered by this definition "affect commerce" and hence fall within the constitutional competence of Congress, it probably makes no difference how they are defined in the statute.

A literal interpretation of subsection 3(s) would bring within the coverage of the act the employees in every enterprise or establishment described therein and not otherwise excluded, in which two or more employees are engaged in handling or working on goods that have been moved in or produced for commerce even if the employer acquired the goods after they had come to rest in the State, and they never thereafter left the State, and were not put to any use relating to commerce or the production of goods for commerce, and were not in competition with similar goods moved in interstate commerce. Such an extension of Federal power could be upheld only if the courts decide that Congress reasonably concluded that it is necessary to make effective the regulation of interstate and foreign commerce. In *Schechter v. Schechter Poultry Corporation*, 295 U.S. 495 (1935), the Supreme Court held that the Federal Government did not have authority to regulate wages and hours of employees engaged in the slaughter and sale of poultry which had been brought into the State from another State and had come to rest there and did not thereafter move in interstate commerce. That case has not been explicitly overruled.

The following excerpt from the concurring opinion of Justice Cardozo at page 554 may still be pertinent:

There is a view of causation that would obliterate the distinction between what is national and what is local in the activities of commerce. Motion at the outer rim is communicated perceptibly, though minutely, to recording instruments at the center. A society such as ours "is an elastic medium which transmits all tremors throughout its territory; the only question is of their size." Per Learned Hand, J., in the court below. The law is not indifferent to considerations of degree. Activities local in their immediacy do not become interstate and national because of distant repercussions. What is near and what is distant may at times be uncertain. * * * There is no penumbra of uncertainty obscuring judgment here. To find immediacy or directness here is to find it almost everywhere. If centripetal forces are to be isolated to the exclusion of the forces that oppose and counteract them, there will be an end to our federal system."

The extensive definition of H.R. 3935 may be particularly significant with respect to subsection 3(s) (4) which covers any establishment, not included in an enterprise described in paragraph (1), (2), or (3) of that subsection which has the requisite volume of sales. Since practically every establishment of any kind handles or sells or otherwise works on some goods that have been moved in or produced for commerce, this subsection seems to cover practically every establishment of every kind which has the stated volume of sales, and is not otherwise excluded.

* * * * *

MARY LOUISE RAMSEY,
Legislative Attorney.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. METCALF. I thank the Senator from Florida for pointing out that in the first colloquy we had I mentioned the fact that there were certain retail employees who were not covered, and

then I suggested that some of the retail employees were covered. I really tried to point out what the Senator from Florida has pointed out much better than I can. From the original date of the enactment this act, this has been a policy decision by Congress. We have determined what people are to be covered by the act and what people will not be covered. The interpretation by the courts in the whole long list of court decisions and interpretations of the Fair Labor Standards Act have all been with respect to the construction of legislative language, with the exception of only one decision as to the constitutional question.

The Senator from Florida has pointed out, better than I could, that here again is a necessity for precise legislative language. I do not know what the language proposed by the Senator from Arizona would do. It has had many constitutional interpretations in many fields. However, I feel that the precise language which has been proposed in the bill enlarges, if you please, in some areas and restricts in other areas the language which the Senator from Arizona suggests, and does precisely what is sought to be done in the act; namely, to extend to some other retail employees the Wage and Hour Act as it has already been applied to some employees, as the Senator has pointed out.

Mr. HOLLAND. I thank the Senator from Montana for his comment. I was certain that he would recognize that his earlier statement had been too general, and that it is not true that the present law excludes all retail coverage, because it does not.

Mr. METCALF subsequently said: Mr. President, I desire recognition in order to propound a question to the distinguished Senator from Michigan [Mr. McNAMARA] concerning the effect of H.R. 3935, as amended by the committee amendment, and I ask unanimous consent that the colloquy may be printed in the RECORD at the conclusion of my previous remarks.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. METCALF. Mr. President, I should like to have a clear understanding how the bill will apply in our national parks, such as Yellowstone and Glacier, where enfranchised private operators maintain hotels, motels, restaurants, filling stations, grocery stores, and other retail establishments. The employee force is largely drawn from colleges and universities. This has been partly by necessity and partly by design. The limitations of the season and short period of summer employment have made it difficult to secure professional, skilled help. Apart from this, the employment of these young persons for two or three seasons; each has helped spread the message of the Park Service. There is a benefit, of course, to the students, who apply in great numbers for these summer park jobs. In Yellowstone Park, for example, these employees will constitute 75 or 85 percent of the employed during the season. My question is:

Will these employees qualify for the exemption provided in section 10 regarding the employment of students?

Mr. McNAMARA. Mr. President, in reply to the Senator's question, I assure him it is my understanding these students will be totally exempt under section 10 of the proposed legislation.

Mr. METCALF. I thank the Senator from Michigan for his clarification.

Mr. COOPER. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I yield.

Mr. COOPER. I agree with the Senator from Florida, that the Senator from Arizona is doing something of value in raising the question of the interpreting section 2(s) of the committee bill. When the Senator from Arizona began his argument, I asked him whether the language in the bill reported by the committee is not, in fact, more restrictive than the language in the bill last year which he offers as a substitute. I think it can be reasoned that it is more restrictive.

I remember that when the bill was considered last year there was much argument on the question whether the definition of an enterprise engaged in commerce now offered by the Senator from Arizona might extend the interpretations of the Supreme Court. The intent of the language was quite unclear. I have been examining the definition of 2(s) in the bill before us and I think it is important for the legislative history, that Senators give their views regarding the definition in the committee amendment. I should be very happy to know if Senators who are members of the Committee on Labor and Public Welfare agree with the interpretation which I derive from the committee section. I address my query also to the Senator from Florida [Mr. HOLLAND], the Senator from Arizona, and to other Senators, because I know all are interested in the question.

If we examine the original Fair Labor Standards Act, as amended, we find that section 6 provides:

Every employer shall pay to each of his employees who is engaged in commerce or in the production of goods for commerce wages at the following rates—

This section provides the basis for payment of the minimum wage. It is that an employee shall be engaged in commerce or in the production of goods for commerce.

Section 3 of the act defines "commerce" as follows:

"Commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

With this definition, I should think it would be very easy to determine whether an employee is engaged in commerce.

Mr. HOLLAND. If I may interrupt the Senator from Kentucky, up to this time he has been addressing himself exclusively to the present law, has he not?

Mr. COOPER. I am now discussing the present law and my interpretation of the committee amendment—section 2 (s).

As I have said, it is not difficult to determine whether an employee has han-

dled goods moving in commerce; that is, goods passing from one State to another. But the Wage and Hour Act provides also in section 6 that an employee engaged in the production of goods for commerce is covered by the Minimum Wage Act.

The definition of "production of goods for commerce" is found in section 3(j) of the Fair Labor Standards Act, as follows:

"Produced" means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.

Another element must be defined in considering whether an employee is engaged in the production of goods. What is the meaning of "goods"? Section 3(i) provides:

"Goods" means goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.

I reason from this language, and I think it is the holding of the Supreme Court, that an employee is engaged in the production of goods for commerce, if he, among other ways, handles or in other manner works upon such goods. Goods are actually in commerce which move across a State line, from one State to another, and according to the act's definition remain in commerce, until they come into the hands of the ultimate consumer.

Mr. BUTLER. No; until they come to rest in the original package.

Mr. COOPER. The Court interprets the language, but that is what the old act provides in its language. When we consider the definition in section 2(s) of the bill, it is necessary to consider the terms "commerce" and "produce for commerce" in the light of their definition in the act, and in the way they have been interpreted by the courts. The amendment provides:

Enterprise engaged in commerce or in the production of goods for commerce.

To me, it means an enterprise whose employees are engaged in commerce between one State and another, or producing, handling, or in any other manner working on goods produced for commerce.

If my analysis of these sections of the act is a correct interpretation the committee section 2(s) follows their language. It specifically provides:

"Enterprise engaged in commerce or in the production of goods for commerce" means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person.

If the definition "production of goods" in the act means anything, it is

that until the goods come into the hands of the ultimate consumer, they are in commerce. They may not be of such volume as to affect commerce, but at least the act's words "commerce" and "produced for commerce" have been terms for determination by the courts, whether the goods are in commerce. As the committee definition contains these phrases, it seems to me that its language is more restrictive and precise than the amendment which the Senate considered last year and which the Senator from Arizona now proposes as a substitute.

Mr. HOLLAND. I have followed the distinguished Senator from Kentucky in every statement he has made. I approve of every argument he made until he came to his last statement. I think he is in error on that point, because the Supreme Court, in interpreting the act, has held that when the goods come to rest in a State, after having been produced in another State, and after having been handled, transported, and moved across State lines and come to rest in another State, they then came within the jurisdiction of the laws of the State where they came to rest, and were no longer in interstate commerce.

In other words, I point out how clearly that subject may be handled. I do not think it is handled too clearly in the original act. The courts have spoken very clearly on this question. As I understand from the authors of the bill, they have worded the bill in such a way as to get around that decision of the Supreme Court. They so admitted on the floor of the Senate a few minutes ago.

Mr. COOPER. My point is not to argue the Court's past interpretations. It is to give my interpretation that the amendment proposed by the committee does not extend section 6 of the act as far as "commerce" is concerned. It uses the same terms "an employee engaged in commerce" and "production for commerce." I am not now talking about whether we want to establish a new policy of coverage under "commerce." So far as the legal terminology is concerned, I cannot see how the committee amendment extends the original language in the Wage and Hour Act. If we read its specific terms, I think that is evident.

Mr. HOLLAND. In answer, I would say that the courts, including the highest Court, have felt otherwise. Furthermore, the courts properly take judicial notice of the legislative history of the act; and at the time when the act was passed by the Senate the then Senator Black, now an Associate Justice of the Supreme Court of the United States, specifically pointed out that this measure was not to be considered as being so broad in its scope as to apply to local retail establishments.

Incidentally, when the present President of the United States was a Member of the Senate—and he was supposed to be a liberal Senator—he said he did not think the measure should affect local marketing, local retailing, and local services. And there was no doubt that that was the interpretation, when the matter

got before the Court; and the Court so held.

But as the Bureau began to issue regulations, through the years; and they got a little broader and a little broader, until finally the Bureau was about to issue a regulation affecting hotels, and was getting deeper and deeper into regulation of the personnel of stores.

So, finally, when it was clear that the Court had, by its decisions, blocked the matter of affecting those handling goods that had moved in interstate commerce, but now were at rest in the States, and had blocked any attempts to include them under the coverage of the act, the same group brought forth, in 1949, a bill which would have extended the coverage and would have done away with the decisions of the Supreme Court, which, as I have said, were based on the act the Congress had passed and on its legislative history.

At that time there was extended debate here; and in referring to it, I am not speaking on the basis of secondhand information, because I, myself, participated very vigorously in it. The Senate took the position that it would not permit the bureaucrats to go beyond what the Senate intended and beyond what the courts said were the limitations of the act.

So at that time we wrote into the act clear limitations in regard to retail businesses which clearly were local and in regard to service activities which were mainly local, so that the earlier decisions of the Court could not be circumvented and so that the original purpose of the act would be subserved.

So what is now sought to be done—and this point has come out clearly during the debate here this afternoon, due to the prompting by the Senator from Arizona—is that the present effort is one to wipe out the original intention and to be more liberal than even President Roosevelt or Senator Black or anyone else who supported the measure at that time, and to do away with the decisions of the Supreme Court, which said this philosophy should not apply and that this act should not apply to retailers handling goods which had come to rest within a State, when they were actually operating only, or largely, within the State. Now it is sought to undo all that, and to greatly broaden the coverage of the original act and to greatly broaden its original specifications.

Now it has been very clearly shown that one of the ways in which just that is proposed to be done is by making it very clear that when the goods come to rest after they have crossed a State line, Federal jurisdiction is not terminated, but the goods are still to be considered as being in interstate commerce.

Mr. COOPER. Mr. President, will the Senator from Florida yield?

The PRESIDING OFFICER (Mr. PELL in the chair). Does the Senator from Florida yield to the Senator from Kentucky?

Mr. HOLLAND. I yield.

Mr. COOPER. I think the Senator from Florida has missed my point. I am not arguing now about policy—

although we cannot get away from it, of course; and I am not arguing about what the Supreme Court decided in regard to interpreting the commerce clause.

I am raising the question as to whether this language of the pending amendment is less restrictive than the committee amendment.

My point is that the committee amendment—and this is the way I would like my view to be interpreted—includes the terms of the original act, namely, "commerce" and "production of goods for commerce." We know those terms have been interpreted by the courts.

Mr. HOLLAND. But then much additional language is added.

Mr. COOPER. If the Court interpreted the committee bill definition, it must interpret it in the light of whether goods were in commerce or were produced for commerce. The courts are familiar with these terms, because the terms are contained at the present time in the Wage and Hour Act.

But the pending amendment, which our own friend from Arizona wishes to have included in the bill, contains different terms and is not included in the original act.

I now read from the amendment of the Senator from Arizona:

"Enterprise engaged in any activity affecting commerce" includes any activity, business, or industry in commerce or necessary to commerce or to the production of goods for, or the distribution of goods in commerce.

No such language appears in the original act.

It seems to me the language we propose to substitute is wider in scope and more capable of being interpreted, as covering more enterprises and activities, than the language of the bill, which includes the same terms in the original act, "commerce" and "production of goods for commerce," and the same terms regarding the handling and working upon goods. And these activities are limited by other language—that the enterprise must be one engaged in commerce or the production of goods for commerce, interpreted by the Supreme Court of the United States.

Mr. GOLDWATER. Mr. President—

Mr. HOLLAND. I am glad to yield to the Senator from Arizona.

Mr. GOLDWATER. Let me ask whether the Senator from Kentucky can cite a single instance, under last year's bill, of an enterprise affecting commerce which would not be covered by the bill, with the exception of those specifically exempted.

Mr. COOPER. No. Frankly, I believe the Supreme Court, in its interpretations, has spelled out criteria to determine whether an enterprise is engaged in interstate commerce. Contrary to what has been argued on this floor, an enterprise can be engaged in interstate commerce in one State. It is no rule that it must have two or three stores or establishments in two or more States. It can be an enterprise in only one State, if its workers are handling goods in commerce or if they are producing goods for commerce; and "goods" means goods moving in commerce.

The courts have held, beyond all that, that there must be some substantial impact on commerce, even though an enterprise handles some goods moving in commerce.

I am worried that the amendment proposed by the Senator from Arizona would add to the problems of the Court new terms and new phrases.

Mr. GOLDWATER. Mr. President, if the Senator from Florida will yield further to me—

Mr. HOLLAND. I yield.

Mr. GOLDWATER. Let me say that I may be incorrect in my recollection; but it is my understanding that the phrase "affecting commerce" was included as a result of the decision in the Jones-Laughlin Steel Co. case, some 26 years ago. The effect of that language has been interpreted, and we know something about its meaning.

But we know nothing about the new language now proposed to be included in the act. In fact, the entire concept of "commerce" under which we worked for years—in other words, goods made for commerce and moving in commerce—would be rescinded and done away with by the language "goods moving in or produced for commerce."

I heard the Senator say, reading from subparagraph (i) of the original act, that it does not include goods after their delivery into the actual physical possession of the ultimate consumer. What we are talking about is the relationship to the goods; it has no relationship to commerce.

Under the present act, persons who are covered, and are meant to be covered, come under subsection (j), which is the definition of the word "produced"; and the key there is, and I am reading from that paragraph:

Or in any other manner worked on in any State; and for the purposes of this Act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.

We get back to the words that are in the pending bill, "that have been moved." The concept of the courts has been that, once the goods come to rest in the buyer's place of business, the retailer's warehouse, grocery store, drug-store, or whatever it might be, those goods are no longer in interstate commerce; but anybody who handles those goods up to that time, or is engaged in producing those goods, is engaged in interstate commerce.

I suggest to the Senator from Kentucky that if an auto dealer in Kentucky bought 50 used cars in Michigan, and moved them across State lines into Kentucky, and put them on his used car lot, under the present interpretation of the law, those goods would no longer be in interstate commerce; but, under the language of the bill, "that has been moved in or produced for commerce," they would be forever in interstate commerce. That is the point I am trying to make.

The reason I have suggested the substitution of the language, which, frankly, I voted against last year, and argued strongly against on the floor, was to bring the point out. I think the argument this afternoon has pointed out the great confusion which exists in this field. I find that learned lawyers and former judges cannot agree on the language. I think those of us who are laymen are beginning to be worried and to look with disfavor on any attempt to broaden the language of the act or to eliminate it entirely.

Mr. COOPER. If the Senator will yield, again, my argument goes to the point that I think the definition given in subsection (s) is limited by the terms "Enterprise engaged in commerce or in the production of goods for commerce." The courts have interpreted that language, and I think there is nothing in the Senator's proposal which would change the court's interpretation. I am familiar with the Jones case. I know what that case held. It is the function of the court, and it has been the court's function in the cases decided, to interpret whether or not a product is in commerce. To the extent that the courts have held that a certain product affected commerce substantially, it has ruled it is in commerce.

It seems to me the definition proposed by the committee should be clearer than the definition proposed by the Senator from Arizona, because it carries the same terms and definition that have been interpreted.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. GOLDWATER. The Senator may recall that I read a colloquy which took place between Mr. Meiklejohn and myself in committee, in which colloquy Mr. Meiklejohn a very learned lawyer for the AFL-CIO, said the interpretation could be narrower or broader. I am inclined to agree that the language of "goods for commerce or moved in commerce" could be narrower. Then we jump the fence and get into language that is new, and we have great difficulty in knowing how it may be interpreted. So we may say we have narrowed it, but then we have broadened it to the limits of the universe in other respects.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield to the Senator from Colorado.

Mr. ALLOTT. I appreciate the courtesy very much. I agree wholeheartedly with the Senator from Arizona. I shall support his amendment, not because it is exactly what I like, but because it is the lesser of two evils. I think that is substantially the statement the Senator from Arizona made.

I should like to address myself to the remarks made by the Senator from Kentucky. I hold in my hand the Fair Labor Standards Act of 1938, as amended. The definition of "goods" specifically states, in the last part of the definition—

But does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than

a producer, manufacturer, or processor thereof.

Let us compare that language with the following language:

"Produced" means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this Act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.

So it is very obvious when this measure was enacted by Congress it had in mind that the language would be strictly construed when it provided that it had to be an occupation directly essential to the production of the goods in any State.

When we compare that language with what we have in the new proposal, I cannot help but agree with the Senator from Florida and the Senator from Arizona that I do not believe anyone knows exactly what it means.

One thing I am sure of is that the language is meant to be all-inclusive except for the exemptions which follow; and I, for one, feel that such questions are best handled by the States.

If I may add an example typical of how far afield we have gone, there is a proposal relating to \$1 million in annual sales, and then a proposal covering sales of \$250,000 or 25 percent of the goods, coming from outside the State.

We are in a new era of economic activity. A gross business of \$250,000 does not mean it is big. It does not mean it is big enough to affect commerce. For example, in the case of grocery stores, the average net on sales of \$1 million is only 1 percent. The grocery store that reaches a net of 1.5 percent is doing very well. The same is true even of automobile dealers today. They operate on a 3 percent margin of their gross sales, and even less. So the criteria the committee proposes, as it has modified this one paragraph, I think are not true criteria. I do not think they truly represent what the Constitution meant when it provided that Congress shall have power to control commerce between the States.

If we pass the proposed legislation, in my opinion, there will be no place into which the Congress cannot reach its long hands and fingers to control the working hours and the wages of the people. Such things should properly be left to the States, for the States know more of their own problems.

I cannot accept the thesis that what is applicable to New York City, to Detroit, or to Philadelphia is applicable to a small town in Colorado, to a small town in Florida, to a small town in Arizona, or to other places. The people in these places know better what they need.

Mr. LAUSCHE. Mr. President, will the Senator yield to me so that I may ask the Senator from Colorado a question?

Mr. HOLLAND. Mr. President, I am happy to yield to the Senator from Ohio so that he may address a question to

the Senator from Colorado and get an answer, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUSCHE. On page 29 of the bill, in subsection (ii), under section 9, which is titled "Exemptions" there appears a listing as exempt of a hotel, motel, restaurant, motion picture theater, or an amusement or recreational establishment that operates on a seasonal basis.

My question is this: If a State wished to pass a minimum wage law establishing a minimum wage in one of those enterprises, would the State have the power to do so, in the event the pending bill is passed?

Mr. ALLOTT. I presume I can answer the question.

Mr. LAUSCHE. I direct the question to the Senator.

Mr. HOLLAND. I yield to the Senator.

Mr. ALLOTT. In my opinion, the State does have the power to do so if it wishes to do so. This is a matter which I believe should be left to the individual States. This is one of the arguments. A motion picture house does business only in one place, on Main Street.

Mr. LAUSCHE. I understand that the States now have the power to do so, but let us assume that the pending bill is passed and the Federal Congress says that the law shall not be applied against these enterprises in regard to minimum wages. Will the State then, in the face of the pronouncement of the Congress of the United States, have the power to fix the minimum wage?

Mr. ALLOTT. I must confess, rather than to give a curbstone opinion to the Senator, I do not know whether the doctrine of preemption would apply in such a situation or not.

Mr. JAVITS. Mr. President, will the Senator yield to me in that regard?

Mr. ALLOTT. At least, there would be a question. If I may, I will yield to the Senator from New York as soon as I finish the colloquy with the Senator from Ohio.

Mr. LAUSCHE. I should like to hear what the Senator from New York has to say on the subject.

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. ALLOTT. The Senator from Florida has the floor.

Mr. HOLLAND. Mr. President, I shall be glad to yield to the Senator, but first I yield to the Senator from Colorado.

Mr. ALLOTT. Mr. President, I ask unanimous consent that I may yield to the Senator from New York or to the Senator from Arizona.

Mr. GOLDWATER. Mr. President—
Mr. HOLLAND. Mr. President, I make the unanimous-consent request that I may transfer my yielding from the Senator from Colorado, who treated me so kindly, to the Senator from New York, who I am sure will treat me with equal kindness.

The PRESIDING OFFICER. Is there objection to the request of the Senator

from Florida? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, I yield to my colleague from Arizona.

Mr. GOLDWATER. Mr. President, as I stated earlier, I have put myself and many other Senators in a rather ridiculous position of having to vote this year for something we voted against last year. I feel sure the purpose of offering the amendment has been accomplished. We have aroused the interest of Senators.

So that my colleagues who anticipate a vote will not have to remain in the Chamber, I ask unanimous consent that the order for the yeas and nays on the amendment may be withdrawn.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arizona? The Chair hears none, and the order for the yeas and nays on the amendment of the Senator from Arizona is withdrawn.

Mr. JAVITS. Mr. President, will my colleague now yield to me?

Mr. ALLOTT. If I may yield, second hand, I do so.

Mr. HOLLAND. Mr. President, I believe I was given consent to yield to the Senator from New York with the understanding that he was going to deal as kindly with me as did the Senator from Colorado.

Mr. JAVITS. I thank the Senator. When the Senator yields to me independently, after he finishes yielding to the Senator from Colorado, I should like to deal with the constitutional question itself.

At this time I wish to answer the question of the Senator from Ohio [Mr. LAUSCHE] in view of the fact that my colleague felt it required a reply.

As I understand the situation, if the Federal Government assumes to regulate something in interstate commerce, then the States cannot regulate it. Hence, to answer the Senator's question about a motion picture theater, assuming that the law applies to a motion picture theater which ships or receives film across State lines in the amount of \$250,000 a year, the State could not and would not be able to regulate that motion picture theater. However, if a motion picture theater were excluded from regulation because it did not ship film to the extent of \$250,000 a year or was not a part of a chain doing business of \$1 million a year, then the State could, notwithstanding the law, regulate the minimum wage in that establishment.

Mr. LAUSCHE. My question is predicated upon the assumption that the hotel does a million dollars' worth of business a year, or that the motion picture theater does ship \$250,000 worth of film across State lines. Would the State be precluded even from passing a minimum wage law, on the basis that the Congress has acted upon the subject, although Congress exempted the enterprise from the Federal law?

Mr. ALLOTT. Mr. President, may I reply to that question, since I was engaged in the controversy in the first instance, if my friend from Florida will indulge me?

Mr. HOLLAND. I yield to the Senator.

Mr. ALLOTT. I refer the Senator to section 18 of the Fair Labor Standards Act of 1938, as amended. I think the provision should be read into the RECORD. It is:

No provision of this Act or of any order thereunder shall excuse noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this Act or a maximum workweek lower than the maximum workweek established under this Act, and no provision of this Act relating to the employment of child labor shall justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established under this Act. No provision of this Act shall justify any employer in reducing a wage paid by him which is in excess of the applicable minimum wage under this Act, or justify any employer in increasing hours or employment maintained by him which are shorter than the maximum hours applicable under this Act.

I assume, from reading the language, in answer to the Senator's question, the meaning is that if the wage which was sought to be set by the State were lower than that set by the Federal law the State would find itself in the field of preemption, but if the wage were higher it would not.

Mr. LAUSCHE. Yes.

Mr. ALLOTT. I very much thank my friend from Florida for his courtesy in yielding to me.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. HOLLAND. Mr. President, I yield to the Senator from New York.

Mr. JAVITS. Not under the same inhibition that I must be gracious?

Mr. HOLLAND. It would be impossible for me to think that the Senator from New York would be other than gracious, so I yield notwithstanding the word.

Mr. JAVITS. I think it is important to put in focus what I consider to be the constitutional scheme we are following in this regard, as distinguished from the provisions of the bill last year.

I had in mind making these remarks in regard to the so-called Monroney amendment, but since Senators will be reading the RECORD, in contemplation for perhaps more expeditious consideration of the bill on Tuesday, it may be helpful for me to make my own views known at this time.

In the first place, there is nothing we can do to enlarge or diminish the power given to Congress by the Constitution to legislate in regard to commerce. We cannot pass any bill which will make our power greater or lesser than it is. Our constitutional powers are fixed. The variable is only the extent and degree to which we shall legislatively exercise these powers according to the necessities of the times. The Supreme Court has recognized this distinction between fixed powers and changing legislative exercise of them by stating in a number of cases, *Kirschbaum v. Walling* (316 U.S. 517), *Walling v. Jacksonville Paper Co.* (317 U.S. 564), *10 E. 40th St. Bldg. v. Callus* (325 U.S. 578), and *Phillips v. Walling*

(324 U.S. 490) that the present coverage of the act is not coextensive with the limits of congressional power over interstate commerce. In other words, there are still a great many things Congress can do under the interstate commerce clause which Congress has not done, and, indeed, which are not proposed in the pending committee bill.

If I understood the legislative scheme when we discussed it in the committee—and I was very interested in this particular matter—it came to this: Instead of relying upon judicial extension of the concept of permissible congressional regulation of interstate commerce to include acts affecting interstate commerce, we would legislate within the frame of reference of our interstate commerce powers in the original purest form, and we would ourselves add a set of economic criteria which we consider to be the limit to which we wish to legislate at this time within those powers. In short, we laid aside the fact that the courts had by their own construction expanded in a sociological sense the concept of interstate commerce, and we chose a different legislative scheme from last year. We said: "We will strictly state the interstate commerce power. We will not use the 'affecting' concept at all, but we shall state economic criteria by which to define those enterprises which we desire to bring under the act."

The importance of that legislative scheme is as follows:

If the court should find that we are proceeding unconstitutionally in respect of a particular set of employees or a particular enterprise, then the Court could under the separability clause of the act and its own inherent power strike down the constitutional application of the act to that particular set of circumstances. But by sticking closely to the elementary power to deal with interstate commerce, we avoid the danger that the Court could strike down the entire statute.

This desirable objective is the one we seek to accomplish by this legislative scheme. We are not seeking, as I see it, constitutionally, to expand or to change our power to deal with anything other than our very elementary constitutional authority; but only, as the Constitution provides, to deal with the word "regulate"—to regulate commerce among the States.

What we are trying to do is establish a set of economic criteria, which we are trying to urge under the commerce clause. It seems to me that this is a much better legislative scheme than that which we adopted last year, because if our economic criteria in a particular situation go further than the court thinks we have constitutional authority to go, the court will strike them down as to that situation, and the entire act is not jeopardized. It seems to me that the committee language states the legislative purpose clearly, as I see it. I thought it was a much cleaner and much sounder way in which to proceed, and I hope very much that we will persevere in that endeavor.

In response to the question raised, as to the reach of State power, I think

that what I have said answers that question completely. It is a scheme of legislation which is complete insofar as it provides coverage. Insofar as it does not cover, then, in accordance with hornbook law the State can step in and act without being inhibited by the Federal Government.

As to the argument of goods coming to rest, I think this same committee provision deals with that concept, but, because we are establishing a legislative criterion as to goods shipped in interstate commerce within the space of a year, basing the volume upon a year, we are then setting the economic criteria that this activity represents a current of commerce.

I shall be happy to answer questions to the limit of my ability.

I point out in summary that it is a much sounder approach to adopt and proceed from the elementary constitutional law provision about which there can be no argument. The Supreme Court has expanded nothing. We use the words "in commerce," and then set forth the economic criteria which shall determine what activities we wish to bring under the law.

We would then rely on our view that if those economic criteria are met, the product is in commerce. But if the Court should disagree with us, the worst that could happen is that it would be held inapplicable to a particular employee or a particular situation, but the entire act would not be invalidated.

Mr. HOLLAND. Mr. President, I believe the Senator from New York has made a real contribution to the debate. If I may paraphrase what he has said, as I have understood him, he felt that the committee had been upon sound ground in attempting to state, using constitutional words wherever possible, the limit of the jurisdiction of Federal law under the Constitution, and then to exclude by economic limitation businesses which at least at this time the Congress does not seek to cover within the act, and to exclude also by specific exemption certain other fields of activity. I believe that is the clearest statement that has been made to date on the subject.

It seems to me, however, that it is clearly subject to the comment I have made heretofore—and I do not believe it is debatable at all that this is true—that if we adopt this criterion, it would mean that this Congress or subsequent Congresses can reduce or remove the limitation, can remove the exemption and proceed under the plenary definition that is stated in lines 5 to 10 on page 14, being subsection (s), and can become just as fully effective to cover all business within the Nation as could possibly be covered within the commerce clause.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. JAVITS. I just wish to clarify that point. I do not believe we could go that far, because I still think that our economic criteria must be such as to bring us within the permissive authority under the Constitution, and I can

easily see a point at which the Supreme Court could step in and say, "Here now, you cannot, just by fixing economic criteria, expand the commerce clause because you assume your findings of fact are conclusive."

Though I am not handling the bill, it seems to me elementary in this situation that our findings of fact are not conclusive. Our findings of fact must be consistent with the authority that we have under the Constitution, and I believe that these economic criteria are high enough, to put it in terms of the opponents of the bill, so that they clearly come within our authority under the Constitution, and I think for the sake of the argument on this bill, that is all I need to say. But I can easily see myself arguing in another situation, with perhaps a very sharp reduction in all these criteria, quite the other way. So I would not wish to let the point go that we are opening the door to every kind of regulation of wages and hours. I do not think so at all. I think the Court can test these criteria in terms of a particular situation or any other criteria we set, because there is nothing we can do to expand our power under the Constitution.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. LAUSCHE. Will the Senator identify the criteria which he has in mind?

Mr. JAVITS. Yes, the criteria contained in subdivision (s), with reference to the \$1 million annual volume and the \$250,000 in shipments, and so forth, and other sections of the bill. I specifically referred to economic criteria.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. HOLLAND. I will be glad to yield in a minute.

It seems to me that the Senator from New York in his latest comment differs from my latest statement in only one respect. He does not at all take the position that the economic criteria are fixed or final. He does not at all debate the soundness of what I said before, that the criteria may be reduced as far as Congress may desire to cover all business which should be covered and can be covered under the interstate commerce clause, because the only question that would remain would be the reduction of these limitations. I think he is correct in stating that the Court, if it ever got to such a ridiculous position, would hold that something had to be substantial to fall within the purview of the Constitution. But, of course, these limitations fixed here are not only substantial but limitations much smaller than these could be held to be substantial, and my objection to the machinery that is employed in the bill is that it would open the door to the widest, so that any subsequent Congress, or this Congress itself, if the act is once passed, will go just as far toward the covering of all business under the interstate commerce clause as the courts will approve.

Mr. JAVITS. Let me say just a few words more by way of caveat. I would not wish by my silence to take the Sen-

ator's construction of my argument. I believe that both stand on their own feet, and both go to make an appropriate legislative record.

I thank the Senator.

Mr. HOLLAND. I am glad that the Senator from New York is so close to my position this year, as he was not last year, when I was arguing strongly the same position against the inclusion of the words "affecting commerce." The distinguished Senator from New York then felt those words were the good words to be used. I am glad that he has changed his mind. I believe that all of us are wiser when we do change our mind from time to time. I am happy indeed to see that we are getting closer and closer together to the common conclusion, at least, in considering the coverage which would be possible under the constitutional provision.

Mr. JAVITS. Again I cannot allow the Senator to state my own position. I only state that the legislative scheme this year is the one that I have described. The legislative scheme last year was the scheme then. All argument must hinge upon the pertinent and appropriate scheme.

Mr. HOLLAND. The Senator does not question the fact that he felt very strongly in support of the scheme last year, does he?

Mr. JAVITS. I supported the scheme last year, and I support what is the scheme this year.

Mr. HOLLAND. I congratulate the Senator very warmly on the fact that he has departed from the scheme of last year's bill, and that he has now come to where he is nearer in his interpretation of the scheme this year to what I deem to be the proper construction.

Mr. JAVITS. That is the Senator's construction, not mine.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. LAUSCHE. I direct my remarks to the amendment in the nature of a substitute offered by the Senator from Arizona [Mr. GOLDWATER]. I recall that last year when the subject was under discussion, the colloquy became rather pointed. An effort was made to determine whether any business of any kind, whether it was a bootmaker or candlestick maker, was covered by the language "activity affecting commerce."

My recollection is that it was pointed out that if there were an automobile and the paint on the automobile contained lead from Colorado, iron from ore which had originated in Minnesota, and machine work which was probably done in Cleveland, it did have an effect on interstate commerce. The principal proponent of last year's bill conceded that all operations were covered except those specifically exempted by the bill.

Now, we get down to the question whether the language offered by the Senator from Arizona is less or more sweet than that contained in the bill of last year. He readopts last year's language and the interpretation placed on last year's language, with all operations covered except those specifically exempted.

If that is the fact, then I cannot understand how the language contained in the bill now pending before the Senate can expand on the latitude covered by the language of last year. I refer to the language contained in subparagraph(s) under section 2 of the bill, reading as follows:

(s) "Enterprise engaged in commerce or in the production of goods for commerce" means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

Under the law as it now exists goods which have come to rest and are handled by an employee are not covered by the Minimum Wage Act. The drafters of the pending bill contemplated, in my opinion, precisely to bring within the law goods whether they are in movement or whether they have come to rest.

I have difficulty in visualizing any activity, either under the language of last year's bill or under the language of this year's bill, as not fully covered by the bill if it is enacted. Under the language of the pending bill we declare that all businesses in the United States, regardless of their character, shall be covered unless exempted.

Then we would say that if the business is less than a million dollars, it shall not be covered; that even it is more than a million dollars, if there is not more than \$250,000 in interstate commerce, it shall not be covered.

I believe we ought to ponder the significance of the colloquy which took place between the Senator from New York [Mr. JAVITS] and the Senator from Florida [Mr. HOLLAND] as to what will be the situation when, 2 years from now, at election time, and 4 years from now, especially, it is proposed to cut the million-dollar criterion down to \$500,000, and then to \$250,000, and perhaps to cut the \$250,000 criterion, with respect to the historic definition of interstate commerce, down to \$125,000 or \$50,000.

If there is apprehension of federalization, concentration, straitjacketing, and substitution of Federal control for all domestic control within the States, this is the time to think seriously about it. This is the important step. If this step is once taken, it means that subsequent action will be toward the reduction of what some may now say are severe criteria.

I would not have voted for the amendment offered by the Senator from Arizona because I have concluded that it is a case of tweedlee and tweedledum. The net result is identical. All businesses are covered except those specifically exempted.

Mr. HOLLAND. I compliment the Senator from Ohio upon his statement. He is a former able judge, and he has judged this case soundly and wisely, and I compliment him. It is true that both of these definitions, the one of last year and the one of this year, are all inclusive. So far as I am concerned, my plague is upon both Houses. I cannot support either. I do point out, however, that the one of last year might have left some question as to whether when goods come to rest they could be held

to be still within the course of interstate commerce. I do not know how the court could have determined that.

Apparently, the ardent, zealous advocates of the bill had glimpsed that possibility, and they thought they should destroy it entirely by putting this definition in the bill this year, language which makes it wholly clear that goods, when they have come to rest within a State, after having moved in interstate commerce, are still in interstate commerce.

EXECUTIVE SESSION

Mr. EASTLAND. Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to consider executive business.

U.S. MARSHALS

Mr. EASTLAND. Mr. President, from the Committee on the Judiciary I report two nominations which were acted upon favorably by the committee, and I ask unanimous consent for their immediate consideration.

The PRESIDING OFFICER (Mr. PELL in the chair). Is there objection? The Chair hears none, and it is so ordered. The nominations will be stated.

The legislative clerk read the nomination of Paul D. Sossamon, of North Carolina, to be U.S. marshal for the western district of North Carolina.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of E. Herman Burrows, of North Carolina, to be U.S. marshal for the middle district of North Carolina.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. EASTLAND. Mr. President, I move that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, the President will be notified forthwith of the confirmation of the nominations.

LEGISLATIVE SESSION

Mr. EASTLAND. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act of \$1.25 an hour, and for other purposes.

Mr. MORTON. Mr. President, I have sent to the desk, to be printed, an

amendment to the so-called Dirksen amendment in the nature of a substitute. My amendment will be available when the Senate convenes after the weekend. At that time, and at some point prior to the vote on the Dirksen substitute, I shall press my amendment. However, I desire to explain the amendment now, so that Senators will have an opportunity to study it over the weekend.

The amendment is very simple. It merely takes the wage rates in the committee bill—that is, \$1.15 for persons presently covered and whose rate of pay will go to \$1.25 after 2 years—and puts them into the Dirksen substitute. It does the same with the newly covered workers, except that it starts their pay at \$1.05, increases it to \$1.15 after 2 years, and to \$1.25 after 4 years, just as the committee bill or the McNamara bill provides.

Those are the only changes I propose in the Dirksen substitute. My amendment applies merely to the wage rates and places them in conformity with the wage rates provided in the committee bill, with the exception that my amendment starts the newly covered workers at \$1.05 instead of \$1.

As I have said, I shall call up my amendment for consideration prior to the vote on the Dirksen amendment in the nature of a substitute, which I understand will not be scheduled until Tuesday.

LUNCHEON IN HONOR OF CHANCELLOR ADENAUER

Mr. JAVITS. Mr. President, I wish to call the attention of the Senate to a notable luncheon which was held today, presided over by the distinguished Senator from Connecticut [Mr. Dodd], and at which the cohosts were the distinguished Senator from New Hampshire [Mr. BRIDGES], the distinguished Senator from Minnesota [Mr. HUMPHREY], the distinguished Senator from Nebraska [Mr. HRUSKA], and I. The luncheon was given in honor of Chancellor Adenauer and Foreign Minister von Brentano, of the German Federal Republic, and was held in the committee room of the Committee on Appropriations in the New Senate Office Building.

A large audience was present, including Mrs. Libeth Werhahn, the daughter of Chancellor Adenauer, and many of our Senate colleagues.

The luncheon was held in the presence of the Vice President of the United States, the Honorable Lyndon B. Johnson; the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Under Secretary of State for Economic Affairs, the Director of the Central Intelligence Agency; the president of the American Red Cross, General Gruenther; the Ambassador from the German Federal Republic to the United States, Dr. Wilhelm Grewe; and the U.S. Ambassador to the German Federal Republic, Mr. J. Walter Dowling.

The luncheon was marked by magnificent addresses delivered by Chancellor Adenauer, Foreign Minister von Brentano, and by many of our colleagues,

and was most graciously presided over by the Senator from Connecticut [Mr. Dodd].

I think the luncheon will go far, in view of the character of the audience and the nature of the addresses, to signalize the close relationship between the German Federal Republic and the United States in the interests of freedom and in the defense of freedom.

Coming at a time when the world has a new degree of curiosity about the new Germany and its role in the pursuit of freedom and in the integration of Europe for economic, political, and governmental purposes, it was a most significant occasion, for which we are all most grateful.

In due course, either I or one of my cohosts will place in the RECORD the text of the remarks which were made at the luncheon. For the present, I only express my gratification, without commenting upon the fine influence I believe the gathering will have on our relations abroad, not only with the people of Germany, but also with the people of Europe and the rest of the free world.

CONDUCT OF THE ROCKY MOUNTAIN ARSENAL

Mr. CARROLL. Mr. President, I have consistently supported on the floor of the Senate the efforts of the distinguished senior Senator from Illinois [Mr. DOUGLAS] to uncover and expose to the public gaze examples of flagrant and inexcusable waste in the Military Establishment. I shall continue to fight for the elimination of waste, duplication, and excessive costs in the military. I think it equally appropriate, however, to proffer praise when praise is deserved. Therefore, I call the attention of the Senate to an article written by Dan Partner, and published in the April 4 issue of the Denver Post, which describes the high degree of efficiency and good management which has characterized the command of Col. William J. Allen, Jr., at the Rocky Mountain Arsenal, in Denver, Colo.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an article entitled "Thrifty Is Key to Success of the Arsenal," written by Dan Partner, a Denver Post staff writer, and published in the Denver Post of April 4, 1961.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THRIFT IS KEY TO SUCCESS OF THE ARSENAL (By Dan Partner)

Investigators who thrive on revealing waste in U.S. military operations might starve to death at the Rocky Mountain Arsenal.

Col. William J. Allen, Jr., commands a taunt, but thrifty, ship for the Army Chemical Corps on some 20,000 arid acres northeast of Denver, where nerve gas is stored and other lethal munitions are engineered and produced.

For example:

C. J. Kuznar, chief of the laboratory division, found that an item costing \$25 each could be rebuilt for 90 cents.

Dr. Maurice Gaon, chief surgeon, discovered that gadgets he needed at the ultra-modern 16-bed hospital cost \$2 each. After a

blit of study he sketched a design, suggested specifications, and arsenal maintenance personnel built the items for 25 cents apiece.

Allen is thrifty by nature which, he says, makes it easier to operate the installation under an Army industrial fund system which requires from 90 to 95 percent effectiveness.

COMPLEX SYSTEM

The arsenal was the first Army unit to install the revolving fund system and to achieve production effectiveness.

Allen set up a complex system of engineering standards, designed a tight control of expenditures and installed a series of checks and rechecks of work hours and production.

"If we make money, the taxpayer is benefited," Allen says. "If we lose money—well, the corps starts looking for a new commanding officer."

The 54-year-old Alabamian has commanded the arsenal since 1958. The refined techniques developed by the Supply Services Division for management of materials is used by the Army as a model of excellence.

Because of the secret nature of the arsenal's operations, visitors are limited. Those allowed to tour the installation say they are impressed by the efficient methods employed by the 600 Army and civilian personnel. The arsenal is valued at approximately \$200 million and pours about \$9 million a year into the Denver area economy.

Since the public can't come to the arsenal, Allen and his staff go to the public. He spearheads a community relations program embracing civic clubs, churches, chambers of commerce and a wide variety of other organizations.

"I think the public is convinced we're not orges, despite the nature of our business," Allen says. "We're interested in the people of the various communities in the Denver area and enjoy participating in their activities."

TEN THOUSAND-FOOT WELL

Many of the problems creating a bad image of the corps have been erased by Allen's efforts. A 10,000-foot well is being drilled to take liquid waste suspected of fouling wells and streams in the farming and residential areas near the arsenal. Cost of the well is \$264,688.

Suits by persons charging damage are being processed and settled as rapidly as possible.

Allen finally has convinced his superiors that a cordial relationship with news media is preferable to a curt no comment method.

"We must maintain security, but I feel that it can be maintained without the go-to-hell attitude when we're asked about something," he says. "I want to provide accurate information instead of having the press and other media get inaccurate accounts from other sources."

Among Allen's biggest problems at the arsenal are housing and transportation for the highly trained technical personnel he wants to retain. Forty Capehart housing units have received preliminary approval in Washington and would do much to relieve the situation. The arsenal's remote location makes transportation a major item in retention of adequate civilian personnel.

To keep morale at high peak, the arsenal claims the best mess in the area, maintains a rod and gun club offering excellent hunting and fishing, and provides commissary and social activities in cooperation with Fitzsimons General Hospital and Lowry Air Force Base.

ADDRESS BY JAMES F. BYRNES AT CHARLESTON CONFEDERATE CENTENNIAL

Mr. THURMOND. Mr. President, on April 11 Hon. James F. Byrnes delivered a notable address at the luncheon

of the South Carolina Civil War Centennial Commission, at the Francis Marion Hotel, in Charleston, S.C. Mr. Byrnes has probably held more important offices than any other man in the history of our country. He has rendered varied and outstanding service to the people of this Nation.

I ask unanimous consent that his interesting, splendid, and historic address be printed in the RECORD following these remarks.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF HON. JAMES F. BYRNES AT THE CHARLESTON CONFEDERATE CENTENNIAL, APRIL 11, 1961

The Senate Judiciary Committee in reporting the resolution establishing the Centennial Commission stated its purpose was to encourage public knowledge of the history of the social, economic, and other causes of the Civil War and its results.

There can be no doubt of the good intentions of the sponsors of the resolution but in my humble opinion it was a mistake. Winston Churchill, in his "History of the English Speaking Peoples," wrote "The cleavages of the great civil war (of England) dominated English life for 2 centuries, and many strange examples of their persistency survive under universal suffrage in English constituencies today."

Our Civil War was the greatest tragedy in the history of any country. After 2 centuries its battles might be commemorated but 1 century is a short period in the history of a country and I fear it is quite impossible to relive the 4 years of our Civil War without recalling experiences that will be unpleasant to the people of both North and South.

However, I am confident no man is more anxious, and more able, if let alone, to administer the resolution than General U. S. Grant, III.

Southerners frequently make history but seldom write it. Many sincere northerners from their reading of history, have an impression entirely different from the accepted view in the South as to the causes of the war. In the next 4 years many speeches made by northerners on this subject will displease you. My views on the subject and particularly as to the bombardment of Fort Sumter may displease others, but I must state my view, which is based in great part upon the official record.

For the views of southern leaders in 1860 as to the right of a State to secede, there was justification. The Declaration of Independence had referred to "free and independent States" and the fundamental opposition of the people to government "without consent of the governed."

The 56 signers of that instrument, in referring to the compact between the United States of America spelled the adjective "united" with a little "u." The Continental Congress drafted the Articles of Confederation which declared that "each State retains its sovereignty, freedom and independence" and every power which is not delegated to the United States.

In the treaty ending the Revolutionary War, Great Britain referred to each one of the States separately, acknowledging them to be free, sovereign and independent States.

At the Constitutional Convention, Madison declared "that the use of force against a State would look more like a declaration of war than the infliction of punishment." And the great federalist, Alexander Hamilton, said that "to coerce the States is one of the maddest projects ever devised."

This desire of the people of all States to limit the power of the Federal Government was so well understood that the men who drafted the Constitution thought it unnecessary to declare it. However, when the in-

message of thanks was printed at the end of the article in the McCormick Messenger.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWO LOST YOUNGSTERS FOUND AFTER ALL-NIGHT SEARCH

Two youngsters strayed from the home of Annie Mae Mims about 4:30 p.m. Sunday and set off an all-night search.

Freddie Lee Garrett, Jr., age 3, was located near a tree about one-quarter mile from the house in a densely wooded area at 1 a.m. Monday morning. He was tired, hungry, and cold, and had been asleep but otherwise he seemed to be all right.

Robie Mae Mims, who will be 3 on April 24, was found at 5 a.m. Monday sitting cold and dejected on the forks of a small branch near where it empties into a creek—probably a mile from the Mims house. The water could easily have drowned her had she slipped in.

The children were found by members of Company B, 122d Engineer Battalion, McCormick National Guard unit. Freddie was spotted by M. Sgt. Joe Price, SFC John Hastings, Sp4c. Bill Bruce and Sp4c. Ted Walker when they heard him whimper. Robie Mae was spotted just after M. Sgt. Price found an item of her clothing on a bush.

Tuesday afternoon a relative of the children said that both seemed to be all right. Robie Mae had a fever Monday but is now up and playing. Reflecting back over the events the relative said, "There sho' was some sleepy people around here Monday—that was the biggest Easter hunt we ever had."

The hunt was touched off Sunday afternoon at the Mims home 2 miles east of McCormick when relatives noticed the youngsters were gone. A search was conducted in the area between the home and Carl Parson's Store on Highway 378. It was learned that they had been near the store and apparently had gone back down the dirt road toward the home.

At 5:30 Sheriff C. A. Fleming was notified. He and Deputies J. P. Gable and W. F. Bosdell went to the scene. They and several volunteers conducted a search of the dirt roads, empty houses, a pond, and some of the woods where the children were last seen playing. Patrolman J. P. Yonce assisted.

When 9:25 rolled around with no trace of the missing children the sheriff called Lt. Jimmy Smith, executive officer of Company B, and asked for help. Smith got busy and rounded up 40 guardsmen from all sections of the county. In a little over an hour they were at the scene.

The lieutenant organized a search at the Mims home. Guardsmen started out walking in small circles and kept spreading out as each sweep was completed. Finding Freddie at 1:00 a.m. gave the searchers hope that the girl was close but it was 4 long hours later when she was located.

There were a number of volunteers who stayed with the search until it was all over. Among those were Charlie Edmunds, Ves Mims, Bee Perrin, Harvey Lee Murray, James Earl Payton. The area is rough—filled with briars, bushes, swampy water, well holes, rocks—but it was fortunate that a pale full moon gave light to the scene.

Sheriff Fleming expressed his deep appreciation Monday to the National Guard for their untiring efforts in locating the missing children.

Freddie Lee and his parents were visiting his grandmother, Annie Mae Mims. Robie Mae is her daughter.

NOTE OF THANKS

"We would like to express our appreciation from the bottom of our hearts to the sheriff

and his deputies, the patrolman, the white and colored volunteers, and especially the National Guard who searched for our children Sunday night.

"We will be eternally grateful.

"May the Heavenly Father bless you each and everyone."

The GARRETT FAMILY,
The MIMS FAMILY.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. DIRKSEN. Mr. President, 23 hours have elapsed since I placed the substitute on the desk, last night. Now that the Senate has worked its will on many things, today, I call up my substitute, for consideration at this time.

The PRESIDING OFFICER. The question at this time is on agreeing to the amendment of the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I now withdraw my amendment.

The PRESIDING OFFICER. The amendment of the Senator from Arizona has been withdrawn.

The question now is on agreeing to the amendment of the Senator from Illinois.

Mr. DIRKSEN. Mr. President, it is not necessary for me to discuss the amendment at length. I could do so tonight, of course; but I know Members have commitments, and wish to get away at this hour.

Therefore, first I wish to address a question to the majority leader, and to indicate to him that my presentation will be brief—perhaps 20 or 25 minutes, at most.

Under the circumstances, I believe that when the unanimous-consent agreement goes into effect on Tuesday, after the Senate reconvenes, if after the morning hour a little extra time were to be allowed, I am sure we could expedite matters. There would be no undue debate on the substitute; and then we could dispose of it, and then we could proceed to deal with other amendments.

Mr. MANSFIELD. I agree with what the distinguished minority leader has said. However, the question is, what is the effect of the Morton amendment to the substitute amendment offered by the Senator from Illinois? Would it be included within the 1 hour allowance?

Mr. DIRKSEN. If the Senator from Kentucky offered that amendment, obviously he would be entitled to 30 minutes for himself, under the agreement. But I am satisfied that he will need only a little time—and there is a reason for that. After all, the substitute is substantially the language of the House bill; and the distinguished Senator from Kentucky will offer the amendment to only one section—namely, the wage sec-

tion—and he will seek to increase it in some particulars. I am advised that 5 minutes is about all that the Senator from Kentucky would require.

So, Mr. President, with the allowance of a reasonable amount of additional time on Tuesday, all of this could very easily be encompassed.

Mr. MANSFIELD. Mr. President, it appears to me that the unanimous-consent agreement already entered into would take care of the proposal which has been made by the distinguished minority leader.

Therefore, it is my understanding that at the conclusion of the morning-hour business of the Senate on next Tuesday, the pending question will be the substitute amendment offered by the distinguished minority leader, and that under the agreement it would be debated for 1 hour, if the opponents and the proponents desired; and if further time were needed to debate that amendment or if further time to debate any other amendments to be offered thereafter were needed, time could be taken from the 4 hours available on the bill.

Mr. DIRKSEN. I think so. Therefore, Mr. President, under the circumstances, at this time, I shall not address myself to the substitute amendment.

I think the majority leader has some other items which he wishes to have laid before the Senate before the session today is concluded.

Mr. MANSFIELD. Mr. President, first I wish to thank the distinguished minority leader for his consideration and cooperation; and I hope it is understood that immediately upon the conclusion of the morning hour on Tuesday, the pending question will be the substitute amendment offered by the Senator from Illinois, and that, under the agreement which has been entered into, 1 hour—or 30 minutes to each side—will be allowed for its consideration.

Mr. DIRKSEN. Yes.

Mr. President, my amendment in the nature of a substitute is now the pending question, is it not?

The PRESIDING OFFICER (Mr. PELL in the chair). That is correct.

ENNIS CRAFT McLAREN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 130, Senate bill 215.

The PRESIDING OFFICER. Is there objection?

There being no objection, the bill (S. 215) for the relief of Ennis Craft McLaren was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Ennis Craft McLaren, boatswain's mate, first class, United States Navy, is hereby relieved of all liability to repay to the United States the sum of \$750, representing the amount paid to him for travel allowances in connection with his transfer from Yokosuka, Japan, to Boston, Massachusetts, in September, 1956, for humanitarian reasons, the payment of such amount having occurred as a result of administrative error.

Sec. 2. The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Ennis Craft McLaren, the sum of any payments received or withheld from him on account of the administrative error referred to in the first section of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed at this point in the RECORD an excerpt from the committee report.

There being no objection, the excerpt from the report (No. 149) was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to relieve Ennis Craft McLaren, boatswain's mate, first class, U.S. Navy, of all liability to repay to the United States the sum of \$750. This sum represents the amount paid to him for traveling allowances in connection with his transfer from Yokosuka, Japan, to Boston, Mass., in September 1956 for humanitarian reasons, such payment having occurred as the result of administrative error.

STATEMENT

An identical bill of the 86th Congress, S. 2872, was reported favorably by this committee and passed the Senate June 28, 1960.

In 1956, while serving in Yokosuka, Japan, Mr. McLaren's 15-year-old stepson became ill with nephritis. Mr. McLaren made an official request to the Chief of Naval Personnel for a transfer to Boston, Mass., for humanitarian reasons, since the only successful transplants of kidneys had been performed at the Peter Bent Brigham Hospital, of Boston.

This request was approved and on September 12, 1956, orders to the U.S. Naval Receiving Station in Boston, Mass., for 4 months, were issued for Mr. McLaren. Despite the treatment in Boston his stepson subsequently died and in view of the resultant condition of his wife, Mr. McLaren was then permanently ordered to that activity.

Persons receiving humanitarian transfers are ordered in a temporary duty status and are not eligible for dependents' travel and transportation of household effects, however, through administrative error Mr. McLaren was paid \$750 for travel allowances on the basis of the permanent transfer from Yokosuka, Japan, to Boston, Mass., for which he is now liable to the Government.

The report of the Navy Department after outlining the facts contained the following comments:

"McLaren is now suffering a hardship which resulted through no fault of his own. Moreover, although the regulations in effect at the time of the issuance of orders for McLaren specifically provided that personnel ordered in accordance with the instruction would be ordered in a temporary duty status and would not be eligible for dependents' transportation and transportation of household effects, it is considered that it was not the intent of the instruction to preclude these allowances upon receipt of the ultimate permanent assignment.

"Accordingly, the Department of the Navy interposes no objection to the enactment of S. 2872."

YEE MEE HONG

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 131, Senate bill 746.

The PRESIDING OFFICER. Is there objection?

There being no objection, the bill (S. 746) for the relief of Yee Mee Hong was considered, ordered to be engrossed for

a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of sections 101(a) (27) (A) and 205 of the Immigration and Nationality Act, Yee Mee Hong, shall be held and considered to be the natural-born minor alien child of Jew Num Yee, citizen of the United States: *Provided,* That no natural parent of the beneficiary, by virtue of such parentage, shall be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an excerpt from the committee report be printed at this point in the RECORD.

There being no objection, the excerpt from the report (No. 150) was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to enable Yee Mee Hong, the adopted daughter of a U.S. citizen, to enter the United States as a nonquota immigrant which is the status normally enjoyed by alien minor children of U.S. citizens.

STATEMENT OF FACTS

The beneficiary of the bill is a 23-year-old native and citizen of China who presently resides in Hong Kong. She has been supported by her adoptive father since 1953 and it is alleged that this constituted a valid adoption under Chinese custom. On June 16, 1960, the Maricopa County, Ariz. superior court decreed her to be the adopted daughter of a U.S. citizen and his resident alien wife. Information is to the effect that they are financially able to care for the beneficiary.

SHOJI HIROSE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 132, Senate bill 757.

The PRESIDING OFFICER. Is there objection?

There being no objection, the bill (S. 757) for the relief of Shoji Hirose was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Shoji Hirose shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an excerpt from the committee report be printed at this point in the RECORD.

There being no objection, the excerpt from the report (No. 151) was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Shoji Hirose. The bill provides for an appropriate quota deduction and for the payment of the required visa fee.

STATEMENT OF FACTS

The beneficiary of the bill is a 77-year-old native and citizen of Japan, who entered the United States on April 22, 1959, as a visitor. He is a widower and presently resides with his only child, a daughter, in Abingdon, Va. She and her husband and three children are all citizens of the United States. The beneficiary was a civil servant in the office of the naval attaché in the Japanese Embassy in London for 27 years, and it is stated that he rendered valuable services to the Allies in England during World War II.

ANTON URBANCIC AND ANTONIA URBANCIC

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 134, Senate bill 945.

The PRESIDING OFFICER. Is there objection?

There being no objection, the bill (S. 945) for the relief of Anton Urbancic and Antonia Urbancic was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Anton Urbancic and Antonia Urbancic shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper quota-control officer to deduct the required numbers from the appropriate quota or quotas for the first year that such quota or quotas are available.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an excerpt from the committee report be printed at this point in the RECORD.

There being no objection, the excerpt from the report (No. 153) was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Anton Urbancic and Antonia Urbancic. The bill provides for appropriate quota deductions and for the payment of the required visa fees.

STATEMENT OF FACTS

The beneficiaries of the bill are a 52-year-old couple, who are natives and citizens of Yugoslavia. The entered the United States on June 5, 1950, as servants in the household of the Yugoslavian Ambassador and left that employment in 1952 and sought asylum. They are presently residing in Toledo, Ohio, where they are serving in a private home as butler and housekeeper.

JOHN G. TIEDEMANN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 135, Senate bill 949.

The PRESIDING OFFICER. Is there objection?

There being no objection, the bill (S. 949) for the relief of John G. Tiedemann was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

It is just such an indomitable spirit as that of Konrad Adenauer that we need to inject into our Union of the Americas.

Technological and social changes have swept the American hemisphere since 1890, when our Pan American Union was formed. Some nations have experienced great advances in democratic and economic betterment of their people; while others have lagged along.

In spite of much heartening progress, the concept of pan-American unity faces its gravest test on its 71st birthday.

To millions in Latin America, life is still a scrubby existence in a prison of ignorance where dwell disease, poverty, and despair.

There are hopes that liberation is coming through teaching, understanding, cooperation, and economic assistance.

President Kennedy's "Alianza Para Progreso" is more than an aid program. It is a promise of a new liberty for scores of millions.

But no single nations, nor any single program, however enlightened or far-reaching it may be, will solve the social and economic problems of Latin America. For some of these problems are as big as the continent itself.

The advance must come in an alliance for progress—a league of understanding and mutual trust shared by all free nations in the hemisphere.

But there is an even greater need to be filled by our union of American Republics than that of bringing about vast social and economic changes.

The American Republics must first face up to the real and deadly threat of communism in our own midst.

The next few months, possibly even the next few weeks, can decide if the union of American Republics is able to survive an alien disease and is able to cast out the Red canker from the hemispheric body.

I am confident that our system of free American Republics will triumph. I am confident that the spirit of liberty flames too brightly to be quenched by any dictator in the mold of Fidel Castro—even though he acts as the cat's-paw for international Communists.

But I am realistic enough to know that we cannot hope the Castro-Communist challenge into oblivion. We cannot wish this evil to be gone, and then rub our eyes and discover that freedom has replaced tyranny in Cuba, at no cost in flesh and muscle and sacrifice. Surely the spirit of those who choose liberty will be tested.

The Organization of American States must face up to the major test for which it has been preparing since the end of World War II. In that interim, by the terms of the Rio Treaty, signed by all of the inter-American Republics—and as buttressed by the Caracas Agreement and Declaration of San José, the threat of a massive Communist assault was anticipated—and a course of action to repel the invasion was carefully spelled out.

Now the invasion has come. The first Red wave has swept over Cuba. New waves are cresting, threatening to destroy the democratic structure of every Latin American nation, one at a time—

if the hemisphere does not rally its forces to resist.

Western Europe is free today because its nations unified against the Communist wave. In southeast Asia, the SEATO nations have promised to act together against communism.

Now the hour of truth has rung for our own union of nations. The major Communist offensive is mounted in the Western Hemisphere. We must decide now if we will act jointly to preserve our freedom, or suffer the consequences.

I should like to read a letter which I have sent to Secretary of State Dean Rusk, containing a thought which, I believe, is highly appropriate on this Pan American Day:

The United States and its southeast Asian allies demonstrated courage and determination at the recent SEATO Conference in meeting head on the Red-inspired Lao crisis.

I commend you particularly for your impressive leadership at the Conference at Bangkok, which resulted in the decision by SEATO members to take whatever action might be appropriate under the terms of the SEATO Treaty to deal with the Communist intervention in Laos, if efforts to reach a peaceful solution are frustrated.

The willingness of free governments to make common cause against a common threat gave the world a vivid lesson, one which was not lost on those who would unceasingly test the mettle of the free people.

The Communist threat to southeast Asia has been recognized. Our reaction was necessary, swift, and realistic.

Now I believe we must take the same necessary, swift and realistic action to erase the equally grave threat which a Communist Cuba poses to the security of our own hemisphere.

I respectfully suggest that you, as Secretary of State of the United States, instruct our representatives in the Organization of American States to call for a meeting of consultation of the OAS under the provisions of the Rio Treaty to deal with the Cuban crisis, and that you announce your willingness to attend the conference wherever it might be held, and that you offer the same staunch leadership to the nations of the Americas as you gave to the free countries of southeast Asia.

Pedro Beltran, the Prime Minister of Peru and the steadfast friend of democracy, recently gave this grave warning:

"If the United States does not step forward now with dynamic leadership to meet the unceasing conspiracy, on our own shores, of the Soviet Union and Red China, Latin America is lost. And if Latin America, with all its 200 million people, is lost, so also is the United States."

Prime Minister Beltran asked:

"But would it not be tragic if the United States won the Congo, secured Berlin, triumphed in Laos * * * while in the end a victorious Communist thrust for power took place in the heart of its own hemisphere?"

If Laos is a Red testing ground for southeast Asia, then surely Cuba must be considered a Red proving range in the Western Hemisphere—to probe the courage and responsiveness of the American republics to a direct Communist challenge. If that challenge is met half-heartedly, then we in the hemisphere can expect that the Cuban proving ground will be transformed into a springboard for either Communist subversion or intimidation—backed by 30,000 tons of Soviet arms.

The OAS has broad powers, conferred in the Rio Treaty and buttressed by the declaration of Caracas and San Jose, to repel any alien penetration of the Americas by political, economic and—under some cir-

cumstances—military means. A foreign ideology has penetrated this hemisphere, but the treaty powers have not been invoked.

A specially called meeting of the OAS to deal with the problem of communism in neighboring Cuba would be a moral, legal, and correct way to meet the situation. I am confident that such a conference under your resolute leadership would lead to unified hemispheric action against Communist inroads in the Americas.

Mr. President, I feel the U.S. Government must assume leadership on this historic day which is called Pan American Day. I can think of no better time for all free people of this hemisphere to begin to organize their efforts to get rid of communism in this hemisphere.

Mr. KEATING. Mr. President, will the distinguished Senator yield to me?

Mr. SMATHERS. I am happy to yield to the able Senator from New York.

Mr. KEATING. I have listened with interest to the address by our distinguished friend from Florida. Earlier today I spoke upon this general subject.

I find myself in complete agreement with the recommendations which the Senator from Florida has made. I think we must act with a more definite plan. We must exercise leadership in bringing this problem to the attention of the Organization of American States.

I know of the long standing interest of the Senator from Florida in the problem. I join with him, and I feel sure many other Members of this body join with him, in urging the Department of State to take the quickest possible action to seize the initiative in this regard, before it is too late.

Mr. SMATHERS. I thank the able Senator. As stated, we thoroughly approve of what the Secretary of State did in moving to Bangkok and in organizing the SEATO nations to join together in resisting Communist aggression. Those nations will take whatever steps need to be taken. I commend the Secretary for that leadership. Certainly, the time has come when similar leadership on the part of the Secretary of State needs to be asserted in this hemisphere with respect to the problem of Cuba.

Mr. KEATING. I thank the Senator.

VETERAN'S ADMINISTRATION LOAN GUARANTEE AND DIRECT HOME LOAN PROGRAMS FOR VETERANS OF WORLD WAR II AND VETERANS OF THE KOREAN CONFLICT

Mr. SPARKMAN. Mr. President, a short while ago the distinguished majority leader [Mr. MANSFIELD] obtained permission that H.R. 5723, a bill passed by the House of Representatives, lie on the desk. I should like to make a brief statement in regard to the bill, because it is a somewhat extraordinary measure. This is, I regard, a somewhat extraordinary procedure. It is resorted to at times, but usually I as well as other Senators frown upon the practice. There is, I think, ample justification for this procedure in this case.

H.R. 5723 is a bill which would provide extensions for the VA loan guarantee and direct home loan programs for veterans of World War II until July 25, 1967, and for veterans of the Korean conflict until

January 31, 1975. The bill also would establish a formula for determining the continuing eligibility for veterans of World War II and the Korean conflict to participate in each of these programs. The bill would further provide additional funds for direct loans to be made during the proposed period of extension of that program.

On March 29, 1961, the senior Senator from Texas [Mr. YARBOROUGH] joined with me in introducing a bill, S. 1481, which contains similar provisions as are contained in H.R. 5723 in relation to the VA direct loan program. In turn, I joined with the Senator from Texas [Mr. YARBOROUGH] in sponsoring a bill, S. 1482, which contains the same provisions as does H.R. 5723 for extending the VA loan guarantee program. My bill was referred to the Senate Committee on Banking and Currency, while the bill relating to the VA loan guarantee program was referred to the Senate Committee on Labor and Public Welfare.

Since our bills somewhat split H.R. 5723 down the middle as they individually pertain to the direct-loan program and the loan guarantee program, we were both hopeful that action by the two committees would occur simultaneously so that the two bills could come before the Senate for consideration at the same time. This has been done in the past. The Housing Subcommittee has today completed 9 days of hearings on S. 1481 and other measures, and it is my understanding that the Committee on Labor and Public Welfare shortly will consider S. 1482.

In order to expedite the business of the Senate, it was felt that H.R. 5723 should be held at the desk so that if favorable action is taken by each committee on the bills now pending, H.R. 5723 could be called from the table and acted upon by the Senate.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. DOUGLAS. Mr. President, I do not wish to speak at length in support of the Senate committee's bill, which has already been ably presented and discussed by the distinguished Senator from Michigan [Mr. McNAMARA] and others, but I should like to introduce into the RECORD some of the evidence which shows the urgent human reasons why the McNamara bill should be passed. There are also ample economic justifications for increasing the minimum wage and for expanding minimum wage coverage.

The objective of the Fair Labor Standards Act is to eliminate, as rapidly as practicable, in those industries which are engaged in commerce or in the production of goods for commerce, "labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers." The question then arises how high the minimum rate would have to be set to provide such a minimum standard of living. Defining "minimum standard of living" is, of course, a matter of individual judgment. Also, with respect to any particular worker, the amount required to maintain whatever level of living is considered "minimum" depends on his family status. Obviously, a lower income would be required for a worker who lives alone than for one who has several dependents.

A number of State and Federal Government agencies have developed lists of goods and services intended to reflect a modest but adequate level of living in terms of standards prevailing in the 1950's for single persons and families of varying sizes. If these minimum living budgets are placed beside the prevailing wage rates and annual incomes of the workers now covered and those covered under the McNamara bill, we find convincing evidence of the human necessities which will be met, and only modestly, by this proposal.

Mr. President, I ask unanimous consent that the following brief tables be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—Cost-of-living budget for a woman worker in the District of Columbia, August 1960

(Adjusted from September 1959)

Items of expenditure:	Weekly cost
Food and housing.....	\$17.44
Food.....	19.85
Housing.....	7.59
Clothing.....	5.32
Other living expenses.....	15.45
Clothing upkeep.....	1.17
Personal care.....	1.56
Health.....	2.08
Recreation.....	2.21
Transportation.....	2.80
Insurance.....	.60
Miscellaneous.....	3.03
Emergency fund.....	2.00
Cost of commodities and services.....	38.21
Federal income tax.....	6.10
District of Columbia income tax.....	.58
Social security tax.....	1.39
Total cost of budget.....	46.28

¹ If all meals could be eaten at home, the cost would be \$8.52. But since a working woman usually must eat lunches out, this budget allows \$6.80 a week for groceries and \$3.05 for lunches.

Source: District of Columbia Minimum Wage and Industrial Board.

This budget was prepared in September 1959 by a committee appointed by the Board and provides for food and housing for a woman living in a group of three.

The major commodity and service items have been adjusted by the appropriate indexes of the Consumer Price Index for Washington, D.C., as of August 1960. The items of transportation, insurance, and emergency fund have not been adjusted.

TABLE 2.—Comparison of cost of living budgets for workingwomen in New Jersey (September 1958) and Minnesota (October 1960)

	New Jersey		Minnesota ¹ (Minneapolis, St. Paul, and Duluth)
	Living at home ²	Living alone ³	
Total annual minimum budget.....	\$2,729	\$3,479	\$2,495
Food, at home.....	230	222	222
Food, restaurants.....	222	767	851
Other household expenses ⁴	243	256	390
Housing and utilities.....	256	701	254
Clothing.....	342	342	24
Clothing upkeep.....	29	29	50
Personal care.....	75	75	113
Medical and dental care.....	127	127	161
Transportation.....	146	146	52
Recreation.....	97	97	None
Vacation.....	80	80	16
Church.....	13	13	32
Reading (newspaper and magazines).....	38	38	86
Other essentials.....	60	60	31
Insurance (\$1,000 policy).....	30	30	75
Social security tax.....	489	489	379
Income tax.....	379	379	273
Savings.....	273	273	None

¹ Living at home with her family, eating lunches out.
² Living alone in a furnished room, eating 3 meals a day in restaurants.

³ Contribution to family expenses.
⁴ Includes \$27 disability insurance.

⁵ Includes \$29 State income tax.

Source: New Jersey Department of Labor and Industry, "Cost of Living for Women Workers," September 1958; Industrial Commission of Minnesota, "Minimum Cost of Living Budgets for Working Women and Minors in Minnesota," October 1960.

TABLE 3.—Annual costs of the city worker's family budget,¹ 20 large cities, autumn 1959

City and suburbs:	Total budget
Atlanta.....	\$5,642
Baltimore.....	5,718
Boston.....	6,317
Chicago.....	6,567
Cincinnati.....	6,100
Cleveland.....	6,199
Detroit.....	6,072
Houston.....	5,370
Kansas City.....	5,964
Los Angeles.....	6,285
Minneapolis.....	6,181
New York.....	5,970
Philadelphia.....	5,898
Pittsburgh.....	6,199
Portland, Oreg.....	6,222
St. Louis.....	6,266
San Francisco.....	6,304
Scranton.....	5,693
Seattle.....	6,562
Washington, D.C.....	6,147

¹ For a family of 4, including an employed husband of 38, wife, an 8-year-old girl, and a 13-year-old boy.

Source: Bureau of Labor Statistics.

State estimates of annual earnings necessary to support a single woman without dependents

THE WOMAN WORKER

State	Date surveyed	Annual budget	Percent change in consumer price index, survey date to December 1960	Annual cost December 1960
Arizona	February 1954	\$2,313	+10.9	\$2,565
California	March 1960	2,647		
Colorado	September 1955	2,176	+11.0	2,415
Connecticut	March 1949	1,867	+25.1	2,336
District of Columbia	September 1959	2,364		
Kentucky	February 1949	1,992	+25.5	2,500
Maine	December 1950	2,236	+19.3	2,668
Massachusetts	February 1954	1,967	+10.9	2,181
Minnesota	October 1960	2,495		
New Jersey	September 1958	3,479	+3.1	3,587
Oregon	February 1959	2,856		
Pennsylvania	May 1957	2,799	+6.6	2,984
Utah	October 1950	2,230	+21.4	2,707
Washington	May 1952	2,664	+12.8	3,005

Source: American Federation of Labor and Congress of Industrial Organizations, except figures for California and Oregon, which are from State reports.

TABLE 4.—Estimated annual cost of goods and services providing the same level of well-being among families of different sizes,¹ 20 large cities and suburbs, autumn 1959

City	Estimated 2-person	Estimated 3-person	CWFB cost for 4-person	Estimated 4-person
Atlanta	\$3,194	\$4,211	\$4,840	\$5,808
Baltimore	3,201	4,220	4,850	5,820
Boston	3,520	4,641	5,334	6,401
Chicago	3,701	4,873	5,607	6,728
Cincinnati	3,408	4,492	5,163	6,196
Cleveland	3,501	4,615	5,305	6,366
Detroit	3,433	4,525	5,201	6,241
Houston	3,051	4,021	4,622	5,646
Kansas City	3,359	4,428	5,090	6,108
Los Angeles	3,514	4,633	5,325	6,390
Minneapolis	3,409	4,494	5,165	6,198
New York	3,332	4,392	5,048	6,058
Philadelphia	3,230	4,324	4,970	5,964
Pittsburgh	3,474	4,580	5,264	6,317
Portland, Oreg.	3,420	4,508	5,182	6,218
St. Louis	3,479	4,588	5,271	6,325
San Francisco	3,525	4,647	5,341	6,409
Seranton	3,190	4,206	4,834	5,801
Seattle	3,697	4,874	5,602	6,722
Washington, D.C.	3,431	4,523	5,199	6,239

¹ The head of all these families is age 35-55, and the family composition is as follows:
 2-person: Husband and wife.
 3-person: Husband and wife, 1 child between 6-16 years.
 4-person: Husband and wife, 2 children, oldest between 6-16 years.
 5-person: Husband and wife, 3 children, oldest between 6-16 years.

Source: "Interim City Worker's Family Budget," USDL, BLS, Monthly Labor Review, August 1960. Estimates for the 2-, 3-, and 5-person families based on the budget for a family of 4. Estimates indicate that the total cost of goods, rents, and services for a 2-person, husband-wife family, aged 35 to 55 years, would be about 66 percent of that for the 4-person budget-type family; for a 3-person family in this age range, with a child between 6 and 16 years, about 87 percent; and for a 5-person family, with the oldest child between 6 and 16 years, about 120 percent. These costs are for 1-carner families. The Consumer Price Index in 1959 (average of 12 months) was 124.6; in February 1961, it was 127.5. Therefore, for February 1961, these figures would be approximately 2.3 percent higher.

Mr. DOUGLAS. Table 1 is the minimum adequate cost of living budget for a woman worker in the District of Columbia for August 1960, developed by the District of Columbia Minimum Wage and Industrial Board.

Table 2 is a comparison of costs of living budgets for workingwomen in New Jersey, September 1958, and Minnesota October 1960, according to the New Jersey Department of Labor and Industry and the Industrial Commission of Minnesota.

TABLE 5.—Difference between the costs of annual minimal living budgets and yearly incomes for a single woman and families in Washington, D.C.

Size of family, annual cost of minimum budget ¹	Hourly rate and annual income (amount more or less than minimum)		
	\$1.25 hourly, \$50 weekly, \$2,500 annually	\$1 hourly, \$40 weekly, \$2,000 annually	\$0.75 hourly, \$30 weekly, \$1,500 annually
(1) Single woman, ² \$2,307	+\$193	-\$307	-\$807
(2) Family of 2, ³ \$3,510	-1,010	-1,510	-2,010
(3) Family of 3, ³ \$4,627	-2,127	-2,627	-3,127
(4) Family of 4, ³ \$5,318	-2,818	-3,318	-3,818
(5) Family of 5, ³ \$6,382	-3,882	-4,382	-4,882

¹ For single woman includes taxes costs; others' costs are for goods and services only.

² Cost of living budget based on August 1960 prices for woman living in a group of 3, District of Columbia Minimum Wage and Industrial Safety Board.

³ The head of all these families is age 35-55, and the family composition is as follows:

2-person: Husband and wife.
 3-person: Husband and wife, 1 child between 6-16 years.
 4-person: Husband and wife, 2 children, oldest between 6-16 years.
 5-person: Husband and wife, 3 children, oldest between 6-16 years.

Minimum for 2-, 3-, 4-, and 5-member families taken from Bureau of Labor Statistics, District of Columbia, Monthly Labor Review, August 1960, based on autumn 1959 prices. Costs given are at estimated February 1961 prices, which were 102.3 percent of autumn 1959 prices. Based on 2,000 hours of wages; 52 weeks of living.

Table 3 shows the annual costs of the city worker's budget for a family of four in 20 large cities for autumn 1959, as developed by the Bureau of Labor Statistics, and State estimates of annual earnings necessary to support a single woman without dependents compiled by the AFL-CIO research division.

Table 4 shows the estimated annual cost of goods and services providing the same level of well-being among families of different sizes in 20 large cities and suburbs, autumn 1959, according to the Bureau of Labor Statistics.

Table 5 is based on the preceding tables, with prices adjusted to February 1961, and shows the annual deficiencies in the budgets of single women and families in the District of Columbia when the wage earner gets less than the maximum rate proposed under the McNamara bill.

Mr. President, these tables speak convincingly for themselves, but by way of brief illustration, let us look at the plight of the woman worker. A woman worker in the District of Columbia, if she is self-supporting with no dependents, is between 25 and 30 years of age, and lives in a family group of three, sharing housing and food costs with the family and securing lunches away from home 5 days each week, needs a yearly income of \$2,307 to maintain the recommended minimum but adequate standard of living. Table 5 shows that she can maintain this minimum standard only if she is employed at \$1.25 an hour, the maximum provided in the McNamara bill. If she gets only \$1 an hour, she will incur a deficit annually of \$307, and if she gets only 75 cents an hour her annual income will be \$807 less than necessary to maintain the minimum standard.

But many women workers, of course, cannot secure the economies of living provided by living in a group of three. The workingwoman living at home with her family in New Jersey, for example, needs—at 1958 prices, which have increased by 3.2 percent—an annual income of \$2,729, or \$229 more than she would earn at \$1.25 an hour, and \$729 more than she would earn at \$1 an hour. But all women cannot live at home either. If this same New Jersey woman were to attempt to live alone in a furnished room, eating three meals a day in restaurants, she would need an annual income of \$3,479, or \$979 more than she would earn if she was employed at \$1.25 an hour. Since 1958 prices have increased by about 3.2 percent, these deficiencies would be substantially higher.

I have noted that some of my colleagues who most vigorously oppose the modest coverage and minimum wage proposals of the McNamara bill are those who speak out loudly against alleged "deficit financing" and "backdoor financing." One might well wonder what is their view of the plight of the woman worker who would run a yearly deficit of from \$300 to \$1,000 if she attempted to maintain a minimum adequate standard of living at the current minimum wage of \$1. I should not like to suggest that the opponents of the McNamara bill are defending individual "deficit financing" or "backdoor financing"—whatever that might mean in the case of the workingwoman—but the implication is there. If the opponents of the McNamara bill are not defending individual deficit financing, then the evidence suggests they are defending the less-than-adequate standard of living.

These minimum budgets do not provide for steak and prime rib on any day, but only for hamburger or chicken occasionally. The woman working for less than \$1.25 today, must reduce her living standard substantially below the adequate minimum. I invite my colleagues who oppose this bill to examine these minimum budgets to see how they would suggest the woman worker adjust her budget in order to live on less than

\$1.25 an hour. I do not think they will find any of the alternatives appealing.

We have so far considered only the workingwoman with no dependents. For a man with no dependents, the minimum budget cost would be about 10 percent higher than for a woman, and the deficits cited would be correspondingly higher.

THE FAMILY WORKER

Now, when we add to the problems of the underpaid worker the consideration that many workers must also support a wife and children, the deficits in income become appalling. In the District of Columbia, a four-person family, composed of husband and wife and two children, requires an income of \$5,318 to afford the minimum adequate goods and services, plus an additional \$948 annually to pay for personal taxes and insurance. This means that a worker who is paid \$1.25 an hour and who is the sole supporter of his family earns \$3,766 less than the minimum needed. Even if his wife also worked and received \$1.25 an hour, their combined income would still fall short of the minimum needed by \$1,266.

How then does the low-paid worker's family survive? The answers are unappetizing, shabby, and miserable. The answers are undefensible for a country which had a gross national product of \$404.8 billion in 1960 and a real product per employed person of \$6,652. The answers are inadequate food, housing, clothing, and education for millions of Americans. One answer for my own State is reflected in the recent report of the Census Bureau that nearly 1½ million Illinois residents are living in unsound housing.

Examples of this kind of "solution" to the problem of inadequate wages do not need to be listed. If all of us are not aware of the plight of the families whose wage earners receive less than \$1.25 an hour, then I invite attention to these tables.

The McNamara bill will help 4½ million workers who are paid an hourly rate insufficient to buy the minimum adequate goods and services needed by one adult.

Of the currently covered 24 million workers, 3,021,000 now receive less than \$1.25 an hour, 2,417,000 receive less than \$1.20, 1,906,000 less than \$1.15, 1,315,000 less than \$1.10, and 912,000 less than \$1.05.

Of the 4,086,000 workers to be covered under the McNamara bill, 1,469,000, or 36 percent, now receive less than \$1.25, and 728,000 workers, or 17.8 percent, receive less than \$1 an hour.

I ask unanimous consent that a table showing the distribution by average hourly earnings of presently covered employees and of employees newly covered by H.R. 3935 be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Distribution by average hourly earnings of presently covered employees and of employees newly covered by H.R. 3935

Hourly earnings level	Currently covered employees		Newly covered employees	
	Number	Percent	Number	Percent
	Thousands		Thousands	
Total-----	23,857	100.0	4,086	100.0
Under \$0.60-----			53	1.3
\$0.70-----			155	3.8
\$0.80-----			306	7.5
\$0.90-----			511	12.5
\$1.00-----			725	17.8
\$1.05-----	912	3.8	850	20.8
\$1.10-----	1,315	5.5	1,005	24.6
\$1.15-----	1,906	8.0	1,148	28.1
\$1.20-----	2,417	10.1	1,352	33.1
\$1.25-----	3,021	12.7	1,469	36.0
\$1.25 and over-----	20,836	87.3	2,617	64.0

Mr. DOUGLAS. Mr. President, can we ignore the plight of these 4,480,000 workers and their families who must exist on a substandard level? The human side of the minimum wage proposals before us is not the only consideration, but I submit that it should be foremost in our minds.

I would now like to comment briefly on the economic justification for the McNamara bill, and I ask unanimous consent that two additional tables be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Changes in average hourly earnings, Consumer Price Index, and productivity, 1956 to current period

Indicator	Base period number	Current period	
		Number	Index
	March 1956	December 1960	
Average hourly earnings:			
Mining-----	\$2.35	\$2.70	114.9
Contract construction-----	2.69	3.38	125.7
Manufacturing-----	1.95	2.32	119.0
Local railways and buslines-----	1.94	2.36	121.6
Telephone (communications)-----	1.84	2.32	126.1
Telegraph (communications)-----	1.89	2.44	129.1
Gas and electric utilities-----	2.17	2.76	127.2
Wholesale trade-----	1.99	2.32	116.6
	March 1956 ¹	December 1960 ¹	
Consumer Price Index-----	114.7	127.5	111.2
	1956 average	1960 average ²	
Productivity:			
Employment—total private (thousands)-----	61,377	60,855	98.4
Man-hours—total private (billions)-----	131.5	127.5	97.0
GNP—total private (billions of 1954 dollars)-----	368.2	404.8	109.9
Real product per man-hour-----	\$2.80	\$3.17	113.2
Real product per employed person-----	\$5,999	\$6,652	110.9

¹ 1947-49=100.

² Preliminary Bureau of Labor Statistics figures. Final figures to be released July 1961.

Number of presently covered and newly covered nonsupervisory employees who would receive wage increases and amount of increases required under H.R. 3935

	Presently covered	Newly covered
Total number of employees (thousands)-----	23,857	4,086
Number of employees receiving wage increases (thousands):		
1st year-----	1,906	728
2d year-----		850
3d year-----	3,021	1,148
4th year-----		1,469
Annual increase in wage payments above present payments (millions):		
1st year-----	\$336	\$218
2d year-----		\$299
3d year-----	\$836	\$502
4th year-----		\$768
Percent increase in wage payments above present payments:		
1st year-----	0.3	1.5
2d year-----		2.1
3d year-----	.8	3.5
4th year-----		5.4
Average hourly increase per employee above present earnings:		
1st year-----	\$0.09	\$0.15
2d year-----		\$0.05
3d year-----	\$0.08	\$0.09
4th year-----		\$0.09

¹ Of the total of 20,363,000 nonsupervisory employees not now protected by the Fair Labor Standards Act, 4,086,000 would be brought under the minimum wage provisions by H.R. 3935.

NOTE.—For presently covered workers, the rate would be \$1.15 1st 2 years and \$1.25 beginning 28 months after enactment. For newly covered workers, the rate would be \$1 1st year, \$1.05 2d year, \$1.15 3d year, and \$1.25 4th year.

Mr. DOUGLAS. The first table shows changes in average hourly earnings, consumer price index, and productivity, 1956 to the end of 1960.

The second shows the number of presently covered and newly covered nonsupervisory employees who would receive wage increases and amount of increases required under H.R. 3935.

AMOUNTS OF WAGE INCREASES PROVIDED BY H.R. 3935

During the first year after the effective date, H.R. 3935 would require wage increases for 1,906,000 of the presently covered workers, and for 728,000 of the newly covered workers. These are workers who are now paid less than \$1.15 and less than \$1 an hour, respectively. Their wages would be increased during the first year by a total of \$554 million on an annual basis. During the second year, 850,000 of the newly covered workers would receive wage increases. On an annual basis, their wages during the second year would amount to \$299 million more than they are now being paid. No presently covered workers would be affected in the second year. During the third year, 3,021,000 of the presently covered workers and 1,148,000 of the newly covered workers would receive wage increases and these increases would amount to \$1,338 million more than they are now being paid. During the fourth year, the presently covered workers would continue to be entitled to wages amounting to \$836 million more than they are now being paid. Also, 1,469,000 newly covered workers would receive wage increases, and they would then be paid \$768 million more than they now

receive. Thus, during the fourth year, a total of 4,490,000 employees would be entitled to wages in excess of the amounts they are now paid, and their annual wage payments would be \$1,604 million more than they are now being paid.

These aggregate sums are large and will provide substantial increases in the incomes of low paid workers. Nevertheless, these amounts represent very small fractions of total wage payments. During the first and second years, the wage costs of all employers of the 23.9 million presently covered workers would be increased by only three-tenths of 1 percent, and during the third year by eight-tenths of 1 percent. Employers of the 4.086 million newly covered workers would have to increase wage costs during the first year by 1.5 percent, during the second year by 2.1 percent, during the third year by 3.5 percent, and during the fourth year by 5.4 percent. These estimates assume no offsetting increases in productivity.

INCREASE IN THE COST OF LIVING

Between March 1956 and December 1960, the Consumer Price Index rose by 11 percent. Thus, the purchasing power of the \$1 minimum wage is substantially less than it was when the rate became effective. Since 1956, the real earnings of workers whose wages are determined by the level of the Federal minimum have declined, and this has occurred during a period when the real earnings of most workers were rising. An increase in the minimum wage to \$1.11 would be required merely to restore the purchasing power of the 1956 rate.

INCREASE IN PRODUCTIVITY

The gross national product of the private sector of the economy, in 1954 dollars, increased from \$368 billion in 1956 to \$404.8 billion in 1960. Employment decreased from 61.4 million in 1956 to 60.9 million in 1960. If we divide the gross national product by the number of employed persons, we obtain the average product produced per person. The average for 1960, \$6,652, is 110.9 percent of the average for 1956, which was \$5,999.

The average real product per man hour in the private sector of the economy was \$2.80 in 1956 and \$3.17 in 1960, an increase of 13.2 percent.

A minimum wage of \$1.25 an hour would provide low paid workers the same real wage as did the \$1 minimum in 1956, plus a proportionate share of the benefits of increased productivity. As already noted, to provide the original purchasing power of the \$1 minimum would require a rate of \$1.11. If \$1.11 is multiplied by 1.13 to allow for the increase in productivity, a rate of \$1.254 is obtained.

INCREASE IN AVERAGE HOURLY EARNINGS

The increases in the cost of living and in productivity which have occurred since the \$1 rate became effective are reflected in substantial increases in the earnings levels of most workers.

Between March 1956 and December 1960, average hourly earnings of factory workers increased by 19 percent. In some of the higher wage manufactur-

ing industries, wages have increased by substantially greater percentages. In some nonmanufacturing industries, earnings have increased by 25 percent or more. This is true of contract construction, telephone and telegraph, and gas and electric utilities.

An increase in the minimum rate to \$1.25 would provide low wage workers with an increase in earnings proportional to that already obtained by most workers. The minimum would be brought to about 53 percent of the average hourly earnings. This would reestablish the former ratio which prevailed after the 1949 and 1955 increases.

MINIMUM WAGE LEVELS FOR NEWLY PROTECTED WORKERS

In keeping with the objective of the act, the minimum wage rate for newly protected workers should be the same as for workers who now enjoy the act's protection. Both groups of workers are composed for the most part of primary breadwinners, and both also include some workers who have no dependents. The same minimum wage rate is required to provide each group of workers with a minimum standard of living. Accordingly, H.R. 3935 would provide a minimum wage rate of \$1.25 an hour for both groups of workers.

Employers of workers who are now covered would be allowed 28 months to adjust to the \$1.25 requirement. Employers of workers who would be newly covered would be allowed 4 years in which to make the adjustment, and during the first year the rate for these workers would be only \$1 an hour. This lower rate would be initially established for the newly covered workers in view of the fact that a large proportion of them are now paid less than \$1 an hour, and immediate imposition of a higher rate might result, contrary to the stated objectives of the act, in substantial curtailment of employment.

AFRICAN FREEDOM DAY

Mr. HUMPHREY. Mr. President, I send to the desk a resolution submitted on behalf of the Senator from New York [Mr. KEATING] and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be read for the information of the Senate.

The legislative clerk read the resolution (S. Res. 125), as follows:

Resolved, That it is the sense of the Senate that April 15, 1961, be recognized as African Freedom Day; and that we extend to the independent countries of Africa our congratulations and assure them of our continued good will.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to; and the Senate proceeded to consider the resolution.

Mr. HUMPHREY. Mr. President, the resolution has been cleared by the majority and the minority leaders and the leadership and has been discussed with my cosponsor and the minority leader, the Senator from Illinois [Mr. DIRKSEN]. I understand that the Senator from New

York wishes to make a statement on it.

Mr. KEATING. Mr. President, before we vote, I have a few remarks I should like to make.

The third annual celebration of African Freedom Day takes place tomorrow. Established by the All-African Peoples Conference at Accra, Ghana, in December 1958, the day has been honored ever since. At that time, Ghana and Guinea were the only newly independent states in Africa south of the Sahara. Today there are 26 African nations now independent of foreign or colonial control on the African Continent. Once known as the Dark Continent, Africa is now bright with the flags and colors of new countries seeking their place in the fellowship of nations.

The path to independence and even the actual realization of independence has not been easy for many parts of Africa. One great problem, as we know, is economic. The first need of many African countries is for a diversified economic base, including manufacturing, and industrial enterprises. It will be necessary for the whole free world to pitch in and help the development of African nations in order to insure orderly progress in this area.

We in the United States, who won our own independence after a long and bloody war, appreciate what independence means to other nations.

Genuine independence, freedom to develop national cultures to the richest degree, and security from outside intervention or aggression—these are values which no American citizen anywhere would question. Already, it is clear that the African peoples feel the same way. They want not merely the form of independence, but genuine independence. They do not want outside interference in their internal policies, whether by Communist or by former colonial powers.

It would be less than fair not to pay tribute to some of the colonial powers which have acted, however reluctantly, to prepare various lands for independence and to assist them in the first stages of economic development. I sincerely trust that the growing tide of African freedom will seep even into the corners of the Union of South Africa, and ultimately it may bring light and freedom there as well.

On this third anniversary of Africa Freedom Day, let us renew our dedication to freedom—freedom for all, freedom from colonial oppression, freedom from Communist subversion, freedom from outside interferences, and freedom within the state for a rich and open society which will offer new and equal opportunities for all. As Americans, we honor the aspirations of all people of freedom and we intend to do everything we can to help in the difficult transitions, economic and otherwise, from colonial status to that of free, self-governing nations.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. KEATING. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I wish to say a word with reference to this particular action of the Senate. This action is similar to that taken by the House on the resolution—House Resolution 232—recognizing April 15 as African Freedom Day, and joining with the expressions and the words of the Senator from New York [Mr. KEATING], let me say that the people of the United States, in acknowledging through Congress this day as African Freedom Day, are expressing to the peoples of Africa and to the independent nations our firm desire for their independence, for their freedom, and for their progress and development—politically, economically, and socially. It is to me a very heartening sign to see the amazing progress that these countries are making and the opportunity that lies ahead for the people of Africa to enjoy the fruits of science and technology for better living.

ASSISTANCE TO THE CHILDREN OF THE WORLD

Mr. HUMPHREY. Mr. President, I have today submitted a resolution dealing with the future of the world's most important assets—its children.

The resolution is designed to provide U.S. leadership in helping the emerging nations to develop well-rounded programs for the overall well-being of their children.

NEW SPECIAL UNICEF FUND

The modest sum of \$500,000 would be provided for a new special fund for the United Nations Children's Fund for the purpose of aiding self-help surveys of children's needs.

This is intended as seed money. It would not be used for direct services to children; rather it would be used to help devise the best possible program, organization, and procedure for such services in the newer nations.

It would enable each country to call upon outside professional counsel to supplement available programming skills. But each country would come to its own conclusions in its own way, as regards future organization and services for its child population. There would not be the slightest foisting upon any nation of an outsider's concepts or possible preconceived views; each country would draw upon the world's pool of technical skills on children's problems, as it might wish.

The concept of surveys is hardly new; the validity of such surveys has long since been fruitfully demonstrated. But the wherewithal has been lacking to provide many well-rounded surveys of children's needs, or, indeed to provide any children's survey, whatsoever, for the many new nations.

THE CHILDREN'S WORLD OF TOMORROW

This resolution might almost be termed the "Children's World of Tomorrow Act."

It is designed to help make a better world for children, particularly in coun-

tries where children today suffer the most and are provided the least.

Today, in many areas of Africa, Asia, the Middle East, and Latin America, the world of children is full of pain, misery, hunger, ignorance, and premature death.

What will a child's world in these areas be like in 1965, 1970, 1975?

If there are to be improvements—more schools, more food, more doctors, more hope, then there must be sound, orderly programs. Priorities must be set. First things must come first. Step by step, year by year, trained manpower for children's needs must be expanded; new facilities must be provided for.

ILLUSTRATIVE QUESTIONS A SURVEY WOULD ANSWER

What is each nation's real potential in services to children? What does it want for its own children? How many schools, maternal and child health centers can it afford and will it be able to afford? What types of professional and subprofessional skills does it need most? How much manpower with these skills can it train in 1 year—5 years—10? What is the best organization for each country in its particular stage of development?

These are but a few of the questions on which a survey might provide some light.

ORIGIN IN SENATE SUBCOMMITTEE STUDY

The origin of this resolution is in information gathered in the course of an international health study pursuant to Senate Resolution 347, 85th Congress, by a subcommittee of the Committee on Government Operations. It is my privilege to serve as chairman of this study. This bill is based, however, on my personal conclusions from this study and that of the staff. It is offered as one Senator's approach to this problem.

One of the most important findings, in my judgment, has been that the health of children—or, for that matter, of adults—in the emerging countries of the world cannot be assured by medical services alone, as important as the latter are.

There should be sound organization for social and economic development—organization in national capitals and in the grassroots—in rural villages and in cities. This resolution might help fit children's programs in to such an overall development, if overall plans exist or can be formulated.

The "seed money" in this resolution would help emerging countries to look ahead. For a sum of perhaps \$25,000 for let us say, a new nation of 3 million or 5 million, the 180 million people of the United States would help that country build for its children in its own way and by the latter's own timetable of programs.

NEED FOR LONG-RANGE VIEW

For years, some of us in the Congress have urged policymakers in the executive branch to look ahead.

For the United States, its friends and its allies to be buffeted year after year, from crisis to crisis, without plan or program for the future, makes no sense.

Many U.S. experts at the working echelons in foreign policy knew of the

need for a long-range program. But some of those on top refused to look beyond their noses to more than the next 12 months.

Now, under the new administration, I am confident that we are going to help our friends to help themselves; not for a fiscal year but for the long pull.

CHILDREN OF AFRICA YESTERDAY—LEADERS OF TODAY

Today, all of Africa, is in ferment. Who, may I ask, leads Africa today, but the men who were its children two or more decades ago?

In the Congo: Kasavubu, Ileo, Mobutu, Tsombe, Gizenga.

In Ghana: Nkrumah.

In Guinea: Toure.

In Kenya: Mboya.

In—or outside—Algeria: Abbas.

In Rhodesia: Banda.

In Tanganyika: Nyerere.

These are but a few of the new personalities who are shaping the world's future.

These men did not spring full grown from nowhere. They are today what they were shaped into becoming during the early formative years of their lives. They are the product of the forces of the last several decades. They are the result, in part, of what the West did and what it did not do.

The resolution which I am offering today is designed to help the emerging nations program ahead for its future leaders—for the Kasavubus, the Mboyas of tomorrow; to help develop healthy, well-educated youngsters who can build a better, more peaceful and freer world.

RESOLUTION TO BE OFFERED AS MUTUAL SECURITY AUTHORIZATION AMENDMENT

It will be my intention to offer this resolution in its substance as an amendment to the 1962 fiscal year mutual security authorization bill.

Since some weeks will elapse before the MSA bill is sent to the Congress, my hope is that by introducing the bill now, the executive branch can begin the process of evaluating it and developing its findings and reactions.

UNANIMOUS-CONSENT REQUEST

I ask unanimous consent that a memorandum which I have prepared on the subject of this resolution be printed at this point in the body of the RECORD, and that it be followed by the text of the resolution.

There being no objection, the memorandums and resolution were ordered to be printed in the RECORD, as follows:

MEMORANDUM BY SENATOR HUMPHREY ON SELF-HELP SURVEY FOR CHILDREN'S NEEDS

Most of the world's children live in developing countries. In most of these countries, governments are not now in a position to develop comprehensive programs for their children—either this year, or for years ahead.

LACK OF ORGANIZED PROGRAM FOR CHILDREN

At present, in most of these underdeveloped countries, responsibility for children's needs tends to be splintered among a wide variety of government agencies. Funds are usually so scarce that by the time these various agencies get around, if at all, to programs for children, there is usually only a minimum of resources left.

Much effort in these various countries is understandably channeled toward produc-

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

Issued April 19, 1961
For actions of April 18, 1961
87th-1st, No. 65

CONTENTS

Administrative orders...	14
Appropriations.....	3
Assistant Secretaries....	7
Automation.....	23
Budget.....	17
Dairy marketing.....	11
Downgrading.....	29
Education.....	28, 37, 45
Electrification....	4, 12, 40
Farm housing.....	25
Farm labor.....	9, 16, 44
Farm program.....	1, 13, 30
Feed grains.....	21
Fish flour.....	5
Forest Service.....	8
Fruits and vegetables....	6
Government operations...	38
Housing.....	3, 34
Information.....	26
Insect control.....	41
Irrigation.....	32
Lands.....	31

Minimum wage.....	2
Nominations.....	42
Peace Corps.....	20
Personnel.....	7, 29
Postal rates.....	19, 33
REA.....	4, 12
Reclamation.....	24, 43
Regulatory agencies.....	22
Research.....	7, 13, 32, 41
Retirement.....	29
Seeds.....	13
Soil conservation.....	36
Supergrades.....	7
Textiles.....	10
Training.....	29
Urban affairs.....	3, 34
Water pollution.....	15, 35
Water resources.....	27
Watersheds.....	36
Wheat quotas.....	39

HIGHLIGHTS: House committee voted to report Mexican farm labor bill. House passed Interior appropriation bill. Senate debated minimum wage bill. Both Houses received proposed bill to establish Urban Affairs and Housing Department. Senate received proposed farm bill. Sen. Ellender and Rep. Cooley introduced and Sen. Ellender discussed farm bill. Sen. Ellender inserted Secretary's Press Club speech.

SENATE

- 1. FARM PROGRAM.** Received from the President the proposed farm bill; to Agriculture and Forestry Committee. See Digest 64 for a summary of the bill. pp. 5667-8
- 2. MINIMUM WAGE.** Continued debate on H. R. 3935, to amend the Fair Labor Standards Act and increase the minimum wage gradually to \$1.25 an hour (pp. 5718-50). By a vote of 34 to 63, rejected an amendment in the nature of a substitute by Sen. Dirksen, as modified by an amendment by Sen. Morton, which would have limited the coverage of additional workers to 1.4 million instead of 4.1 million (pp. 5718-25). By a vote of 34 to 63, rejected an amendment in the nature of a

substitute by Sen. Russell which would have limited coverage to workers presently covered by the Act. (pp. 5725-30).

3. URBAN AFFAIRS AND HOUSING. Both Houses received from the President a proposed bill to establish a Department of Urban Affairs and Housing; to Government Operations Committees. pp. 5668, 5829
 4. ELECTRIFICATION. Sen. Humphrey criticized the action of former Secretary Benson in directing that "all major loans under consideration by REA be screened by the Director of Agricultural Credit Services, one of his appointees, before it could be signed by the REA Administrator," and commended Secretary Freeman for restoring "to the new REA Administrator, Norman M. Clapp, full and complete authority to approve or disapprove REA loan applications. Administrator Clapp is going to run REA, just as Congress intended him to do." pp. 5707-8
 5. FISH FLOUR. Sen. Smith, Mass., urged the Food and Drug Administration to approve the marketing of a new product, fish flour, for consumption in the U. S. p. 5670
 6. FRUITS AND VEGETABLES. Received a Calif. Legislature resolution urging action to provide that imported fruits and vegetables be of the same quality, grade, sanitary and other standards as U. S. products. pp. 5668-9
 7. PERSONNEL. Received from the Civil Service Commission a proposed bill to increase the number of supergrade positions and fix the compensation of hearing examiners; to Post Office and Civil Service Committee. p. 5668
Received from the President a proposed bill to establish a position of Assistant Secretary of Health, Education, and Welfare; to Post Office and Civil Service Committee. p. 5668
- HOUSE
8. INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1962. Passed with an amendment this bill, H. R. 6345. See Digest 63 for items of interest to this Department. pp. 5755, 5755-68
 9. FARM LABOR. The Agriculture Committee voted to report (but did not actually report with amendments this bill, H. R. 2010, to extend the Mexican farm labor program. p. D255
 10. TEXTILES. Rep. Vinson discussed the "excessive and unrestrained importation of foreign textiles into the United States," saying that "any condition that threatens the welfare of the textile industry strikes at the very heart of the general economy, the welfare and security of the Nation." Several other Representatives joined him in deploring the situation under the present Reciprocal Trade Agreements Act of 1953. pp. 5776-90, 5791-5822, 5822-3
 11. DAIRY MARKETING. Rep. Patman inserted a talk, "Federal Market Orders and Unfair Trade Practices" by Prof. Willard F. Mueller. pp. 5825-6
 12. ELECTRIFICATION. Rep. Price spoke condemning the action of former Secretary Benson in giving certain loanmaking authority of the REA Administrator to the Director of Agricultural Credit Services, and praised the present administration for restoring this authority to the REA Administrator. p. 5770

coming to maturity the values of the American heritage, teach them to respect these values in their daily lives. For in these values lie the real strength of our society. And what are these values that must be taught to American youth?

The first thing, the most important thing our Nation's youth must learn is the real meaning of the word "freedom." We hear a lot of 4th of July speeches about freedom. We read about it. But there is good cause to wonder if all those who praise the blessings and enjoy the privileges of freedom, really understand it.

Freedom really describes that magnificent privilege, with its grave responsibility, which permits a man to work out his destiny according to his own mind and according to his own abilities. This is the essence of freedom: the unhindered opportunity for man to choose. And our country's future will depend on the wisdom of those choices. Our moral fiber will depend on whether we choose what is right or what is wrong. Our national strength will depend on how much stamina, how much courage we choose to display. The achievements of our industry will depend on how hard we choose to work. And these achievements will be made by the individuals in the Nation, by the work the individuals choose to perform, by the self-discipline individuals choose to exercise, by the principles individuals choose to support.

That is why it is so important that the youth in America, the new generation, learn to make the correct choices. For the essential questions, the vital questions, which all freemen must answer are: How do we use our freedom? What kind of choices do we make?

Just living in a free society is no great achievement. Nations do not become great, nor do they remain great just because of freedom. Recently I read about a nation which was described as a pleasant place for business enterprise, a place where young men were taught to get on, where extravagance kept pace with shrewd finance. Its citizens were self-satisfied, placid, self-confident, money-getting, pleasure-loving people, honoring success and hugging their financial security. This description sounded familiar, and it was very disturbing. For that nation was Carthage, just before its fall.

History is filled with accounts of wealth, civilized nations that lost their perspective, sunk in the desire for self-gratification, unable to cope with hardship. And history records that they fell, overwhelmed by other nations less wealthy, less secure, but more willing to accept hardship. The Greeks and Romans, masters of the ancient world, saw empires slip away. They saw their freedom vanish, simply because their citizens made the easy choices, which all too often were the wrong choices. The citizens of Athens and Rome chose no longer to support their states. They chose the pleasures of soft living. They chose to look after their private wealth, their private success, their private interests, while public interests took second place.

Life has become considerably more complicated since the days of Greece and Rome. And it is even more difficult always to make the right choice. But in any age there is one concept, one sure guide that can be relied on in making choices. And that guide is a well-developed sense of responsibility. A deep sense of personal responsibility has remained at the root of progress down through the years. And continued progress rests squarely upon the idea of individual freedom of choice and action, with that same personal responsibility for one's own decisions.

But responsibility cannot be ordered into being. There are a lot of people who would like to create a sense of responsibility merely by passing a law. This looks like the simple solution, the easy way. But it is not the

way people learn to be responsible. Responsibility like everything else must be learned. And responsibility must be learned today by the new generation that is emerging, learned by those who will take charge in the 21st century. Learning to be responsible is a long process. No one just suddenly learns to accept responsibilities. He must be educated in them, trained, slowly and carefully. The process starts in childhood, in the home, and it continues in our churches and in our schools.

That is why we cannot wait until our youngsters have become adults before preparing them to take their full place in society. Children as they grow up must be given responsibilities. They must be faced with making choices. And when they have made their choice, they must be held accountable for that choice. They must learn to accept the consequences for their actions or for their failure to act. They must learn the meaning of reward and of punishment.

Sometimes it is simpler to overlook an irresponsible act. It causes less trouble, less bother. No one's feelings get hurt. But in the long run, sanctions and punishments are far kinder to both the child and society than permissiveness and license. Because if we can't be troubled by responsibilities today, we can be sure we will be troubled tomorrow. We will be troubled by irresponsible citizens, by men and women without a sense of duty or obligation to their families, to their communities, or to their Nation.

Our youth must learn less about how to make money and much more about their responsibilities. We must educate them in the basic values that have made our country great. We must demonstrate by our example the importance of hard work, of competition, the importance of patriotism and integrity. Most of all, we must teach our young people to respect and to stand up for principles. For at the very heart of a man's sense of responsibility are his principles, his beliefs, his convictions. Responsibility rests on a man's convictions because a man's judgment is also based on his convictions.

Our country was built by men with principles. Our fathers and our grandfathers were staunch men, men who held fast to their principles even when the rewards seemed to go to those who compromised their integrity. Our forebears knew that they could compromise on issues, but never with principles. They knew what future generations must learn that a man's strength, a nation's strength, is founded on principles and on a willingness to stand up for them.

Today—some people seem to feel that this modern age has removed the need for principles. There are those who believe that situations now control principles, that principles no longer control situations. But fundamental principles never change. A man must have convictions in which he believes deeply and for which he must be willing to stand up and be counted. When a man sacrifices his principles, he loses everything. He loses his self-confidence. He loses his self-respect and the respect of others. He loses his sense of purpose; he becomes weak and vacillating. Ultimately he becomes fearful: he loses his courage.

In the final analysis, national security is based on courage, not on money, nor on material wealth, nor on military power. Military strength can reinforce courage, can help make resolution effective and believable. But there can be no substitute for courage itself. That is why it is so important that our future citizens learn the meaning of principles, learn to accept responsibility for them, learn to safeguard them with courage.

The fundamental qualities of our national life are being tested by the forces of tyranny. We are engaged in a struggle that will last for a long, long time. And we must have the strength, the stamina, and the courage for the long pull. The future won't

be easy for us. But when has the future ever been easy?

Was the future easy for our 13 little Colonies when they defied the overwhelming power of the British Empire? Was the future easy for our pioneers when they moved west, toward a hostile frontier with "a little powder, a little salt, and a great deal of determination"?

We've known trouble before. Our way of life was born in struggle and has survived some appalling tests. We've faced up to tyranny before. We've watched dictatorships rise and fall. Since 1776 extraordinary men and women, extraordinary Americans, have overcome extraordinary obstacles. And I am confident, future Americans will overcome them again.

Our Nation is fundamentally sound; within our Republic are the sparks of courage and the latent qualities to meet any task, to answer any challenge. Our duty—yours and mine—is to bring out those qualities in ourselves and in others, to provide the example that young America can follow with pride. If we carry out this duty, we can look to the future with confidence. The future will be in good hands.

MOTION PICTURE INDUSTRY AWARDS

Mr. ENGLE. Mr. President, last evening the annual ceremony of presenting awards of achievement for outstanding performance in the motion picture industry was held in Santa Monica, Calif. The program was witnessed by one of the largest television audiences on record, and many more millions of viewers in other lands will see the tape and film during the next few days since no American product is more widely known or more universally followed than the movie.

Known more familiarly as the Oscar award ceremony, it is a means of the American motion picture industry honoring the artists and the craftsmen of the worldwide motion picture industry. A jury of their peers—more than 2,000 members of the Academy of Motion Picture Arts and Sciences—chose the best in each category achieved during 1960.

It demonstrates too, in another way, the uniqueness of this industry which started in a shed in a citrus grove less than half a century ago and is now among the largest and certainly the best known in my State. Dealing as it does in glamor and entertainment, it is nonetheless big business by every measurement.

Few realize that the American motion picture business brought back \$225 millions in foreign earnings last year. Even fewer realize that this equals more than 40 percent of the total earned abroad by all U.S. manufacturing industries put together. All American service industries—shipping, airlines, and similar service business—earned \$330 million abroad in 1960 and \$225 million of this sum was earned by American movies. All U.S. manufacturing industries earned abroad last year \$549 million and the movies alone earned more than 40 percent of this sum.

I mention this business side of our California industry since it is frequently overlooked by those who regard Hollywood merely as a place where beautiful women and handsome men live in a

world of make-believe. There's no make-believe to \$330 million of annual earnings abroad for this country.

So, in requesting that a list of the winners in the various categories of endeavor appear following my remarks, I not only compliment these men and women on their talent but I also salute the American motion picture industry for singling out the best achievement and honoring it publicly and beautifully as was done last night.

The award winners are:

Best motion picture: "The Apartment," Mirisch Co.

Best motion picture actor: Burt Lancaster.

Best motion picture actress: Elizabeth Taylor.

Best supporting roles: Shirley Jones in "Elmer Gantry" and Peter Ustinov in "Spartacus."

Best documentary feature: "The Horse With the Flying Tail," made by Walt Disney.

Best short subject: "Giuseppina," Lester A. Schoenfeld Films—British.

Best special effects: "The Time Machine," made by MGM, Gene Warren and Tim Baer.

Best costume design for a black and white picture: Edith Head and Edward Stevenson for "The Facts of Life," United Artists.

Best costume design for a color production: Valles and Bill Thomas for "Spartacus," Universal-International.

Best score for a musical picture: Morris Stoloff and Harry Sukman for "Song Without End," Goetz-Vidor Pictures.

Best score for a drama or comedy: Ernest Gold for "Exodus," Carlyle-Alpina S.A. Production.

Best song first used in an eligible picture: Manos Hadjidakis, "Never on Sunday," Melinafilm Production, Lopert Pictures Corp.—Greek.

Best directing: Billy Wilder for "The Apartment," Mirisch Co.

Best screenplay based on material from another medium: Richard Brooks for "Elmer Gantry," Burt Lancaster-Richard Brooks Production.

Best story and screenplay written directly for the screen: Billy Wilder and I.A.L. Diamond for "The Apartment," Mirisch Co.

Best foreign language film: "The Virgin Spring," A. B. Svensk Filmindustri—Sweden.

Best art direction in black and white: Alexander Trauner in "The Apartment," Mirisch Co. Set decoration by Edward G. Boyle.

Best art direction in color: Alexander Golitzen and Eric Orborm for "Spartacus," Byrna Productions. Set decorations: Russell A. Gausman and Julia Heron.

Best cinematography in black and white: Freddie Francis for "Sons and Lovers," Company of Artists.

Best cinematography in color: Russell Metty for "Spartacus," Byrna Productions.

Special Jean Hersholt Humanitarian Award to Producer Sol Lesser.

Best sound achievement to Gordon E. Sawyer for "The Alamo," Samuel Goldwyn Sound Department.

Special honorary awards to Gary Cooper and comedian Stan Laurel.

Special honorary juvenile award to Hayley Mills.

Best short subjects: Cartoons, "Munro," Rembrandt Films, William L. Snyder, producer. Live action subjects, "Day of the Painter," Little Movies, Kingsley-Union Films, Ezra R. Baker, producer.

The VICE PRESIDENT. Is there further morning business? If not, morning business is closed.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum; but in that connection I ask that the time required for the quorum call not be charged to the time available to either side under the unanimous-consent agreement.

The VICE PRESIDENT. Is there objection? The Chair hears none. Without objection, it is so ordered; and the clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 27]

Alken	Engle	McNamara
Allott	Ervin	Metcalf
Anderson	Fong	Miller
Bartlett	Fulbright	Monroney
Beall	Goldwater	Morse
Bennett	Gore	Morton
Bible	Gruening	Moss
Blakley	Hart	Mundt
Boggs	Hartke	Muskie
Bridges	Hayden	Neuberger
Burdick	Hickenlooper	Pastore
Bush	Hickey	Pell
Butler	Hill	Prouty
Byrd, Va.	Holland	Proxmire
Byrd, W. Va.	Hruska	Randolph
Cannon	Humphrey	Russell
Capehart	Jackson	Saltonstall
Carlson	Javits	Schoeppel
Carroll	Johnston	Scott
Case, N.J.	Jordan	Smathers
Case, S. Dak.	Keating	Smith, Mass.
Chavez	Kefauver	Smith, Maine
Church	Kerr	Sparkman
Clark	Kuchel	Stennis
Cooper	Lausche	Symington
Cotton	Long, Mo.	Talmadge
Curtis	Long, Hawaii	Thurmond
Dirksen	Long, La.	Williams, N.J.
Dodd	Magnuson	Williams, Del.
Douglas	Mansfield	Yarborough
Dworshak	McCarthy	Young, N. Dak.
Eastland	McClellan	Young, Ohio
Ellender	McGee	

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. ROBERTSON] is absent because of illness.

Mr. KUCHEL. I announce that the Senator from Wisconsin [Mr. WILEY] is absent because of death of his brother.

The PRESIDING OFFICER. (Mrs. NEUBERGER in the chair.) A quorum is present.

Mr. MANSFIELD. Madam President, I yield myself 1 minute. Is the pend-

ing business the so-called Dirksen substitute?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois [Mr. DIRKSEN] in the nature of a substitute for the bill. Under the unanimous consent agreement 1 hour is allotted to each side on the amendment.

ORDER OF BUSINESS

Mr. DIRKSEN. Madam President, at this time I should like to ask the majority leader what the schedule generally will be for the remainder of the day.

Mr. MANSFIELD. Madam President, if Senators will indulge me, I should like to announce that due to foreseen circumstances, it is the intention of the leadership to request the Senate to adjourn at approximately 6:30 p.m. this evening. This subject has been discussed with the distinguished minority leader. It is also our intention to convene at 12 o'clock noon tomorrow.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Madam President, I ask unanimous consent that when the Senate adjourns tonight, it adjourn to meet at 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. DIRKSEN. Madam President, under the unanimous-consent agreement an hour is allowed on any substitute or any motion, with the exception of a motion to table, but 4 hours will be allotted on the bill. If any amendments are offered, and it would appear rather difficult to develop those amendments fully within the hour limitation, I shall within reason always be ready to allocate some time on the bill.

The pending business before the Senate at the present time is the substitute for the committee bill. In substance, the substitute is almost identical with the House bill. I might develop a little history of the entire question, because I was in the other body when the House passed the first Wage and Hour Act in 1938.

Mr. MORTON. Madam President, will the Senator yield before he develops his background?

Mr. DIRKSEN. I yield.

Mr. MORTON. As the Senator knows, I have an amendment to his substitute which I wish to offer before the vote comes on the substitute. What would the parliamentary situation then be?

Mr. DIRKSEN. The amendment may be offered to the pending substitute at any time, because I think it is within the

rule of degrees. I might consult the Chair and ask for an opinion from the Parliamentarian as to whether my statement is correct.

The PRESIDING OFFICER. An amendment to an amendment in the nature of a substitute takes precedence over the substitute.

Mr. DIRKSEN. Amendments to the substitute?

The PRESIDING OFFICER. The Senator is correct.

Mr. DIRKSEN. I ask the distinguished Senator from Kentucky whether he would care to offer his amendment at this time.

Mr. MORTON. I shall offer it as soon as the Senator from Illinois has finished his general discussion of the substitute with the background that I understand he is now prepared to develop.

Mr. LAUSCHE. Madam President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. LAUSCHE. Does the substitute bill contain the identical per-hour wage contained in the House bill?

Mr. DIRKSEN. One dollar and fifteen cents.

Mr. LAUSCHE. Yes. I contemplate offering an amendment to the substitute. I should like at this time to state what I have in mind. My amendment would eliminate the wage provision of \$1.15 provided in the Dirksen substitute and substitute therefor the wage provision contained in the committee bill.

Mr. DIRKSEN. Madam President, substantially that amendment may be offered by the distinguished Senator from Kentucky [Mr. MORTON]. If I may be permitted, I shall develop a few thoughts with respect to the pending bill and the substitute.

Mr. HOLLAND. Madam President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. HOLLAND. Earlier today I understood that the Senator from Illinois would be gracious enough to allow me 30 minutes additional for the presentation of my amendment. I wish to find out at this time whether his plans will still permit that much generosity.

Mr. DIRKSEN. I am sure there will be time available, and I shall be glad to do so.

Mr. HOLLAND. My only reason for asking is that I have had requests for time, and I wish to know what I can apportion among the various Senators who have requested time. I thank the Senator from Illinois.

Mr. DIRKSEN. Madam President, when this subject was before the House and the House passed the first Fair Labor Standards Act of 1938, I believe there were four basic questions. The first one was whether the Federal Government should intrude into this field, and, second, whether it ought to be limited within the terms of the commerce clause of the Constitution. Specifically, the other questions which arose were the question of wages that ought to be established, with the matter of overtime, and the matter of exemptions.

Frankly, the problems which confront us today are virtually no different than those that confronted us then, when the

original act was passed in 1938. I read, for purposes of the RECORD, the commerce clause that was carried in the original act. It states:

"Commerce" means trade, commerce, transportation, transmission, or communication among the several States or from any State to any place outside thereof.

That definition has remained consistently in the law, and up to last year no effort was made to modify it.

The word "enterprise" did not appear in the original bill. It never appeared in any bill amendatory of the act until the Kennedy bill of 1960. It was a point which was rather generously discussed in committee before the bill ever reached the floor. It was a matter which received great emphasis in the House of Representatives. It received additional emphasis in the committee on conference. I speak advisedly, because I was a member of the conference committee. Much importance was attached to the use of the word "enterprise," and such terms as "affecting activities in commerce."

Since 1938 there has been a progressive unfoldment of the bill. We started with 20 cents. That was raised to 40 cents. Then the wage was raised progressively until we got to a dollar. The last change in the Wage-Hour Act was made in 1956, when the minimum wage was established at \$1. By that time the coverage in the act had reached 24 million. It was said from time to time that there were still, roughly, 20 million people, mainly retail, domestic, and agricultural employees, who were still uncovered.

In 1960 this matter took on a new burst of interest, when 20 measures were introduced, most of them on the House side, because there is no multiple sponsorship of bills in the House.

We went to conference with the Senate bill and the House bill. I forget exactly how long that conference lasted, but I know it continued day after day for quite some time. The distinguished Senator from West Virginia [Mr. RANDOLPH] nods his head in agreement, that the conference did last for quite a while.

The first point I make is that there could have been a bill in 1960. There could have been an increase in the minimum wage from a dollar to a dollar and fifteen cents. Incidentally, I point out in connection with the minority views, to which I generally subscribe, that I have never taken the position that I am opposed to an increase in the minimum wage. Therefore, out of the conference there could have come a bill, and it would have been at the House figure of \$1.15. However, the question of enterprise, the question of activities affecting commerce, and the question of distorting the commerce clause engaged much of the time and much of the discussion in the conference. As a result, the bill failed in conference, and no bill was enacted.

I reemphasize the fact that we could have increased the minimum wage in 1960 if we had not got into the hassle with respect to the extension of the commerce clause and provisions which in the first instance were estimated to

bring within the purview of the act another 10,700,000 people. That was the first estimate with respect to the bill then before the Senate committee as to the number of additional people that would be covered.

Mr. CASE of South Dakota. Madam President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. CASE of South Dakota. Do I understand that the amendment which the Senator from Illinois is offering in the nature of a substitute would preserve the requirement that an enterprise is one which is a multiple retail establishment and which operates in two or more States?

Mr. DIRKSEN. That is correct.

Mr. CASE of South Dakota. The Senator's amendment would preserve the traditional concept of interstate commerce. Is that correct?

Mr. DIRKSEN. It clearly preserves not only our understanding of the interstate commerce clause with reference to the Fair Labor Standards Act, but it also maintains what in fact is in a sense the existing law. If we set up the requirement of five establishments in two or more States, there can be no question that the substitute conforms to the commerce clause.

Mr. RANDOLPH. Madam President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. RANDOLPH. I plan to participate in the debate later, when certain Senators will oppose the Holland and Monroney amendments. At this time I shall not call that argument into focus. However, I am sure the distinguished minority leader would not wish to indicate at this point in his remarks that the failure of the Senate and House conferees in 1960 to agree on a bill was based on any single proposal or disagreement.

Mr. DIRKSEN. Oh, no.

Mr. RANDOLPH. It was not based on any one problem which divided us.

Mr. DIRKSEN. There were many factors before the conference committee. I point out that there will be a conference problem, now that the House has passed a bill. It is fair to assume that the Senate will take final action on the pending bill today or tomorrow. So we will get right back to the questions which have beset us heretofore; first, the commerce clause and, second, the coverage of local enterprises, depending on the volume of business expressed in terms of dollars. Then, too, we had the problem of the changed concept. Then I point out that the original act puts the emphasis on the relationship between the employee and the employer, and carries the language "any employee" shall receive the minimum wage at a given amount. The concept now, however, is to bring not merely individuals under the act, but also to bring establishments under the act.

The bill reported by the committee is quite clear on the point that if two people are identified with commerce in an establishment the whole establishment comes within the jurisdiction of the Fair Labor Standards Act.

Now, in 1961, the House bill will do this. First, it includes those who process

shade grown tobacco. It redefines board and lodging. It carries a provision with respect to what constitutes enterprise within the Fair Labor Standards Act and within the jurisdiction of the Federal Government. It sets a minimum of five establishments in two or more States. Then of course there are various exclusions of retail services. Then there is a foreign competition study. It starts the new wage at \$1.15, and for noncovered persons—those who are not presently covered under the statute—it sets the wage at \$1. There is the customary exemption on child labor. Then there are the usual exemptions with respect to restaurants, farm equipment dealers, auto dealers, radio stations and TV stations in areas with populations of 100,000 or less.

That is the coverage in the bill passed by the House this year. Then comes the substitute which was offered by the distinguished assistant leader of the House, the whip, the Member from the State of Oklahoma, known as the Albert bill. It was generally assumed that that bill was a substitute which had the approval of the administration. I hastily cover the items. For those who were already covered by the Fair Labor Standards Act the new wage increase was to start at \$1.15 and obtain for a period of 2 years.

Then, 28 months after the effective date of the bill, the minimum wage was to go to \$1.25. The noncovered employees, who are not now under the Fair Labor Standards Act, but who would be brought within its purview by the Albert bill, were to start at \$1; and the original idea of escalation, from \$1 to 1.05, \$1.10, \$1.20, and ultimately \$1.25, was stricken from the bill. No overtime was provided in the Albert bill for noncovered employees. There was a provision with respect to retailers who had \$1 million worth of sales—not profits, but sales—provided that 25 percent of such sales were out of State.

There was an exclusion for all retail establishments having sales under \$250,000. Hotels and motels were exempt, and restaurants were exempt unless they were included in a department store or a drugstore, or other establishment, which was already covered. That is a rather interesting device. It shows the confusion and difficulty of administration which can develop in a measure of this kind when we start playing around with exemptions and modifying the original law, when most of these proposals have already been tested.

Motion picture theaters were exempt; likewise hospitals; likewise laundries, notwithstanding the fact that the idea of including laundries was discussed at length in the Senate committee and also in the House committee, but then were finally deleted by a floor amendment offered by the distinguished Representative from Georgia.

In the case of transit employees, the wage increase applied only to those who worked for bus companies, interurban transit systems, and so forth, provided, in the Albert bill, that the annual revenue was a million dollars or more.

In the case of persons engaged in the canning business—and they were covered by the Cooper amendment last week—we stayed with the original bill, namely, 14 plus 14, or 28 weeks of exemptions. In the Senate bill, it was proposed to reduce those figures to 10 and 10. However, I think that question has now been fairly disposed of, so far as the Senate is concerned.

With respect to the committee bill now before the Senate, first I point out that in many respects it is arbitrary. One could take all the time to discuss the original provisions of the committee bill, but there will not be sufficient time to do so.

A moment ago I pointed out one provision in connection with restaurants. This is the situation: On one side of Main Street is an independent restaurant. Normally, we would try to cover it, provided its gross sales were within the range of the committee bill. Then came the question of the department store which operated a lunch counter or a restaurant. If the department store was covered, its restaurant was covered. The point was made that that would be unfair competition. Therefore, it was necessary to exclude all food establishments to make certain that there would be fairness in competition.

Second, with respect to the committee bill, there is the problem of enterprise. I must say that that is a problem in itself. First, with respect to enterprise, there was a slight modification in the language this year as compared with the language last year. I shall read it, because I can think of no better way to explain and make clear the difficulties involved in bringing almost every business establishment within the purview of the Federal Government than to go back to the committee bill which is now before the Senate. The proposed definition of "enterprise engaged in commerce" is as follows:

"Enterprise engaged in commerce or in the production of goods for commerce" means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person.

I point out that under the language "have been moved" goods could have been moved for a period of 10 years before, but they would still come within the purview of the committee bill.

Then the language is particularized, after the general definition of "enterprise":

Any such enterprise which has one or more retail or service establishments—

No exception is made; it includes retailers and service establishments—

if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated and if such enterprise purchases or receives goods for resale that move or have moved across States lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more.

In this day of high prices and inflation, we can readily imagine how many establishments at the retail level would be included under the definition of

\$1 million in gross sales where \$250,000 of the sales comes across State lines.

The second definition under "enterprise" reads:

Any such enterprise which has one or more establishments engaged in laundering, cleaning, or repairing clothings or fabrics if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated.

It had been hoped that the language would reach industrial laundries, but the language does not so provide. The result was that when I asked the Secretary of Commerce in the committee how many laundries would be affected, he said, "Roughly about 90."

I said, "Suppose one laundry does more than \$1 million business annually, and another laundry does \$900,000 business annually. One laundry is covered, and one laundry is not. How do you justify that from the competitive standpoint?"

The third group defined under "enterprise" is as follows:

Any such enterprise which is engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motor bus carrier.

I should like to know what commercial aspect there is which would place under the commerce clause the bus system in my hometown of 25,000 people. It has no identity with any other carrier. It has no interstate commerce attribute of any kind. But if it did a million dollars' worth of business, it would come within the provisions of the act.

The fourth definition of "enterprise" reads:

Any establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000.

This is the residual clause:

Any establishment or any enterprise which has employees engaged in commerce.

How many are needed? Only two, to satisfy the plural language in that subsection. If one employs two persons, his establishment comes within the definition of "commerce."

I know it is argued that there are other criteria. There must be a million dollars' worth of sales. An enterprise must do a million dollars' worth of business. If that is not hooking the dollar sign upon the commerce clause of the Constitution, then I do not understand the English language. So we have the concept of bringing a million employees and employers within the purview of the act. It is designed to bring certain establishments under the act. The fact that a cutoff is provided does not obviate the fact that the Government extends its Federal jurisdiction over all these establishments, and then says to certain establishments, under this section of the committee bill: "You, however, are out, because you do not do a million dollars' worth of business." But they are under the jurisdiction of the Federal Government, notwithstanding, and that never was within the contemplation of those

who first pioneered the Fair Labor Standards Act.

Mr. RANDOLPH. Madam President, will the Senator from Illinois yield?

Mr. DIRKSEN. I yield.

Mr. RANDOLPH. The Senator, I feel certain, would not wish to indicate that in prior legislation which has been enacted, not specifically pertaining to the subject matter before us, but in many areas, there have been limitations in the laws and there have been cutoffs to be covered in administration of the acts. Is not that correct?

Mr. DIRKSEN. Oh, there may have been in some laws, for aught I know.

Mr. RANDOLPH. There have been; that is a fact. We must recognize that there are certain criteria or limitations or levels of coverage.

Mr. DIRKSEN. Specifically, to what does the Senator from West Virginia refer?

Mr. RANDOLPH. I refer to agricultural measures and other bills that have become law.

The Walsh-Healy Act, since 1936, and the Davis-Bacon Act, since 1935, have based the application of Federal labor standards to Government contract work on dollar amount cutoffs.

The Fair Labor Standards Act itself contains cutoffs.

The telegraph agency provision in section 13(a) (13) applies the act to agencies having gross revenues of more than \$500 a month and excludes those with gross revenues of less than \$500.

The provision in section 13(a) (8) uses a circulation cutoff of 4,000 as a test to determine whether a newspaper does or does not come under the act.

Telephone switchboard operators are protected or not protected by the act depending on whether the exchange they serve has more or less than 750 stations.

Less than 2 years ago the Congress, in section 701 of the Labor-Management Reporting and Disclosure Act of 1959, put its stamp of approval on the jurisdictional dollar volume cutoffs of the National Labor Relations Board.

Mr. DIRKSEN. I have to be guided by the subject matter before the Senate and the language with which the Senate has to deal. When the bill defines "enterprise engaged in commerce" in that fashion, by means of the general clause, it would extend Federal jurisdiction; and then the Federal Government would say, "But you are out, at least for the time being, because your business does not amount to \$1 million a year." But we must remember what Mr. Biemiller, the legislative representative of the American Federation of Labor, said when he was before the committee. I said to him:

Mr. Biemiller, when you were before the House committee and were discussing laundries, you were not satisfied with a \$1 million limitation; you wanted it to be reduced to \$250,000.

He replied:

That is correct.

At any time Congress can simply wipe out the dollar limitations in this measure, and then all these businesses will be placed under the jurisdiction of the

Federal Government. But that was not contemplated even by President Roosevelt or Mr. Justice Black, who then was a Member of the Senate, and carried the bill through the Senate.

Mr. RANDOLPH. Madam President, will the Senator from Illinois yield further?

Mr. DIRKSEN. I yield.

Mr. RANDOLPH. I appreciate the opportunity to comment further in regard to the \$1 million business limitation. The Senator from Illinois will recall that I offered that amendment in the 86th Congress when the measure was being considered last year in our Labor and Public Welfare Committee; it was the amendment which increased the limitation from \$500,000 to \$1 million. It has been retained in the present committee bill. I think it is proper and understandable that one Congress may look at a subject differently from the way in which it is considered by another Congress. In that regard, I agree with the Senator from Illinois. We cannot allow the status quo to stop legislative action based on realism.

But I also believe that with the \$1 million limitation, rather than the \$500,000 limitation originally proposed, we have reached at least a certain reasonable concept. Madam President, we have attempted to cushion the hardship cases and the problems inherent in small business. Such an approach was our purpose in the committee. Republican Members and Democratic Members recognize this fact.

Mr. DIRKSEN. Madam President, the only difficulty is that my recollection, like Banquo's ghost, rises up to indicate that over 28 years since I have been around the legislative branch of the Government, I have seen these plasters added to bill after bill and the jurisdiction of the Federal Government extended.

Here we have a classic example. It was not within the contemplation of anyone in 1938, and I heard no such averments on the floor of the House of Representatives, that the Government would reach out and would regulate local enterprises. In fact, Mr. Justice Black, then Senator Black, stated specifically on the floor of the Senate and in the committee that it was not within his contemplation that that should be done, because the Federal Government could not effectively administer and monitor those local businesses. So they kept them to one side.

But here is just another advance in this entire field; and the next one will come, if Mr. Biemiller has his way, by reducing the second dollar-amount criterion. Who can say when a subsequent Congress will wipe out every bit of it; and then the entire list of criteria will vanish into thin air, and Uncle Sam will intrude his jurisdiction upon all these business enterprises.

The PRESIDING OFFICER. The time available to the Senator from Illinois has expired.

Mr. DIRKSEN. Madam President, I yield myself 10 minutes on the bill.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 10 minutes on the bill.

Mr. RANDOLPH. Madam President, will the Senator from Illinois yield further?

Mr. DIRKSEN. I yield.

Mr. RANDOLPH. The Senator from Illinois has presented argument with his characteristic eloquence, and it is compelling. But I remind him that certainly legislation is not a static force. Neither is the Nation static. Neither are its people static. We have not only the desire but, oftentimes, also the compulsion to improve legislation, rather than destroy it; and such improvement can come about, to a degree, by compromise. Such challenges are not always black or white; sometimes we cannot say there are only two sides. Often there are as many sides to these problems as there are parties at issue. That is why there has to be not only mobility, as we recognize it within our business structure, but also a desire to recognize, here in the Senate, that sometimes the very fact of change is the most difficult fact to recognize.

Mr. DIRKSEN. Madam President, never was my friend, the Senator from West Virginia, so correct and so eloquent on that point in all his life as when he said it is not static; and that is just as sure as it is sure that there is a sun in heaven. I had hoped that there might be something a little more static about the commerce clause of the Constitution. But here we have an example of the dynamic, as distinguished from the static—moving ever forward. And there will be other steps forward, until finally the States will become mere geographical subdivisions shown on the maps distributed by the oil companies, which tourists obtain at the gasoline service stations, for their convenience—and nothing more.

Mr. HUMPHREY. Madam President, will the Senator from Illinois yield to me?

Mr. DIRKSEN. I yield.

Mr. HUMPHREY. I wonder whether the Senator from Illinois made the same moving argument in regard to expansion of the commerce clause of the Constitution when he voted for the Landrum-Griffin amendments, here in the Senate.

Mr. DIRKSEN. Exactly so.

Mr. HUMPHREY. Did the Senator from Illinois then make the same argument?

Mr. DIRKSEN. Yes.

Mr. HUMPHREY. And yet the Senator from Illinois voted for that bill.

Mr. DIRKSEN. Yes; but the Senator forgets that the bill we voted for, here in the Senate, was voted on after I served on the chairman of the subcommittee notice that I would exercise my right to have the Senate act on the bill by a fair motion. That is what happened. That is why we got the Landrum-Griffin bill, as a matter of fact. But the modifications made in that bill are known to those who sat in the conference for 11 long days, over in the old Supreme Court chambers; and I was one of them.

Mr. HUMPHREY. Madam President, will the Senator from Illinois yield further to me?

Mr. DIRKSEN. I yield.

Mr. HUMPHREY. The Senator from Illinois has again given us a very articulate and generalized statement about his action in regard to the Landrum-Griffin bill. His presentation was dramatic, but it was not precise. I am asking whether he offered an amendment to restrict the application of that bill, so that it would not affect a small union which might have had little or nothing to do with interstate commerce. Did the Senator from Illinois submit such an amendment?

Mr. DIRKSEN. Oh, Madam President, they were brought into the stream of commerce a long time ago.

Mr. HUMPHREY. But the Senator did not have the same emotional urge to do something to protect the restricted application of the commerce clause in that case, a year ago. However, now he has a strong feeling that we must protect the limited interpretation of the commerce clause—which limited interpretation, by the way, does not exist in fact, for there is no doubt that law after law is based upon a very broad interpretation of the commerce clause.

Mr. DIRKSEN. The Senator from Minnesota should have been here when we discussed the question of covering small businesses, such as the blueprint manufacturer in Utah. Then he would have discovered where I stood with respect to the question of commerce. I held up my hand eight times in the other body and twice in the Senate in taking an oath to uphold and defend the Constitution and the laws of the United States; and I have to defend them on the basis of how I interpret the commerce clause of the Constitution. And that I mean to do so long as I am a Member of this body or so long as I have any place in this Government or any other government.

Now, Madam President, I get along to the rest of it. I would like to know how construction comes under the commerce clause. Is it because a contractor in Illinois buys machinery from Connecticut, but does all his contracting in my hometown? Does that put him in interstate commerce? The bill provides that, if he does \$350,000 worth of business and if he comes within the enterprise definition, he obviously comes within the purview of the bill. What does it say? The language is clear as crystal with respect to contractors, because they are one of the five groups that are covered. All a contractor has to do is have two persons who may handle something that has been shipped in interstate commerce, and he may get every dollar he makes out of my hometown, but the bill puts him under the definition. I can see no commerce about that. The same is true of gas stations.

But I am not unmindful of the fact that others may differ as to my concept of the Constitution and the commerce clause. To me it is clear as crystal that we are extending the Federal domain to such dimensions that we go far beyond the intention. Our only hope is a court interpretation. But I am not content to depend only on the court. I have a responsibility of my own, and I expect to fulfill it as best I know how. That is the

reason for the substitute proposal. It is the House bill. If the Senate agreed to it, we would have a bill.

I said earlier we could have had a bill last year, but we could not get an agreement in conference. If we got an agreement on the substitute, we would move to a bill that raises the minimum wage from \$1 to \$1.15. With that, the bill will have to go to conference. Before it gets to conference, the Senate will have to select its conferees. So will the House. It will have to be sent back for appointment of conferees. If there is a single objection on the floor of the House, under the House rules the matter will have to go to the Rules Committee in order to get a rule to send it to conference. Then the conferees will be appointed. Then we shall be back where we were when we deliberated for 11 days in the old Supreme Court room.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. DIRKSEN. I yield myself 3 additional minutes.

What will happen? Will the same thing happen as happened last year? I would rather have a bill. I would rather be honest about it. I would rather not distort the commerce clause of the Constitution. There is precisely where we stand.

In my considered judgment, this is the best opportunity to get a bill. I say it out of what I deem to be a wealth of experience. I am not insensible of the fact that there was a narrow vote in the other body. That does not prevent the House from instructing the conferees to stand by the House bill. If the Senate conferees stand by the bill as approved by the committee, we may have the same difficulty all over again.

That is the reason why I am submitting this substitute. It has passed the House. It offers an excellent opportunity to get a bill, as distinguished from the fruitless and abortive action that took place last year. Here is a chance to get some bread when we are not seeking quite a whole loaf. On that point I am willing to relinquish the discussion and submit the substitution for the consideration of the Senate.

Mr. LAUSCHE. Madam President, will the Senator yield for a question?

Mr. DIRKSEN. I yield.

Mr. LAUSCHE. The substitute amendment and the House bill both exempt hotels, motels, restaurants, and motion picture theaters. The substitute bill does so on the basis that they are engaged in the rendition of service, as distinguished from the sale of goods. The reason for exempting these business establishments in the bill as reported from the committee are not set forth. Last year my recollection is that hotels, motels, automobile agencies, restaurants, and farm implement dealers were exempted as a last minute measure to defeat the Monroney amendment.

May I ask on what theory, if there is to be a coverage of workers, it is justifiable to exempt employees of hotels, motels, restaurants, motion picture theaters, and so forth, merely because

they are engaged in the rendition of service, as contemplated by the substitute bill?

Mr. DIRKSEN. I cannot say that there is any particular line of logic by which many of these exemptions were made. Take, for instance, newsboys, who were exempted under the original act, and a great many other businesses. The question of administration, the question of difficulty of application, the question of how many might be covered or not covered, because there might be only a handful, and various other reasons were assigned when the exemptions were considered in committee. I cannot say to the distinguished Senator from Ohio that the reasoning followed any particular line or pattern, except as witnesses made their case in their testimony before the committee and it became apparent we were going to run into difficulty, the question was, Should they be exempt? Then, all through the consideration of the measure, ran the question, Well, why not exempt them if it is in the interest of securing enactment of the bill? That is sometimes a highly additional reason for taking some of the employees from under coverage of the bill.

The PRESIDING OFFICER. The time of the Senator from Illinois has again expired.

Mr. LAUSCHE. Will the Senator yield further?

Mr. DIRKSEN. I yield myself 1 additional minute, and I yield to the Senator from Ohio.

Mr. LAUSCHE. Obviously there has come about a change in thinking in 1961 from that which prevailed in 1960. The proponents of the bill as reported from committee in 1960 said, "We recommend that hotels, motels, restaurants, farm implement dealers, and automobile agencies, be included." Then, the Senator from Illinois will probably recall, what happened when the Monroney proposal came up on the floor was that it was decided to liberate the hotels, motels, and the others I have identified. It meant to me that at that time that the strong were freed and the weak were harnessed.

Mr. DIRKSEN. On that particular point, let me just summarize how the entire matter came about. The original Senate bill exempted hotels and motels. The Albert bill, which was the substitute administration bill in the House, did the same. The proposal I offered here did the same. The bill we considered in committee covered the nontipped employees in hotel enterprises with \$1 million in annual sales. I cannot tell the Senator why, because I could not follow some of the perplexing logic advanced. Then the Senate bill passed last year exempted hotels and motels. Senate bill 1457, introduced last year, also exempted hotels and motels. So the Senator can take his choice out of the various approaches.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MORTON. Madam President, I call up my amendments to the substitute of the Senator from Illinois, identified as "4-14-61—A."

The PRESIDING OFFICER. Is there objection to the amendments of the Senator from Kentucky to the Dirksen substitute being offered at this time? Without objection, it is so ordered. The clerk will state the amendments.

The LEGISLATIVE CLERK. On page 5, lines 14 and 15, it is proposed to strike out paragraph (1) and insert in lieu thereof the following:

(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section.

On page 6, it is proposed to strike out all of lines 18 and 19, and insert in lieu thereof the following:

Amendments of 1961, wages at rates not less than \$1.05 an hour during the first two years from the effective date of such amendments; not less than \$1.15 an hour during the third year from such date; not less than the rate effective under paragraph (1) of subsection (a) thereafter.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. MORTON. Madam President, the amendments are very simple, and apply to the Dirksen substitute. All the proposal would do is to take the wage rates out of controversy. The proposal would adopt the wage rates of the committee bill, of the McNamara bill, with one minor exception with regard to the newly covered workers, who would be given a rate of \$1.05 an hour rather than \$1 an hour.

I did this because the rate of \$1.05 is already in the Dirksen substitute, and I saw no reason to change it.

What I seek to do is to narrow the issue. The wage rate, which will reach \$1.25 would be the same, if my amendment is agreed to in respect to the Dirksen substitute, as is provided in the committee bill.

I have no quarrel with the wage rate sought by the administration. I do have some questions as to the matter of coverage. I think most of the controversy, as the Senate considers the proposed legislation, will be in regard to the areas of coverage.

I hope my amendment will be agreed to. It is simple. It speaks for itself. I shall be glad to answer any questions any Senators may have.

If I may have the attention of the Senator from Illinois [Mr. DIRKSEN], I wonder if the Senator will accept my amendment, or modify his amendment to incorporate the features of my amendment?

Mr. LAUSCHE. Madam President—

Mr. DIRKSEN. Madam President—

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. LAUSCHE. Madam President, will the Senator yield to me before the Senator from Illinois answers the question?

Mr. MORTON. I yield to the Senator from Ohio.

Mr. LAUSCHE. A few moments ago I showed to the Senator from Kentucky an amendment which I have prepared, in substance on the same subject. I con-

template eliminating the wage provisions of the Dirksen proposal and substituting therefor the wage provisions of the committee bill.

How does the proposal of the Senator from Kentucky differ from my amendment?

Mr. MORTON. I hastily read the amendment of the Senator from Ohio, and I did not find in it any section which dealt with newly covered employees.

Mr. LAUSCHE. The Senator is correct. My amendment would not deal separately with newly covered employees. My amendment would provide that the pay shall be:

Not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section.

Am I correct in my understanding that the amendment of the Senator from Kentucky would apply a different schedule to newly covered employees?

Mr. MORTON. Yes, the Senator is correct. My application to newly covered employees follows the committee procedure, except that I would start with \$1.05, as does the Dirksen substitute, instead of \$1 for the first 2 years. It would be not less than \$1.15 for the third year, and not less than the rate effective under the bill, which would be \$1.25, for the fourth year and thereafter.

In other words, under my proposal, as under the proposal which came from the committee, the rate for newly covered employees would go up more gradually and would start at a lower figure, but at the end of 4 years all workers would have \$1.25 an hour. Those presently covered would have the rate of \$1.25 under my amendment, as they would under the Senator's proposal, after 2 years.

Mr. LAUSCHE. Am I correct in my understanding that the Senator from Kentucky has offered the amendment while subscribing generally to the proposition that we ought not, by legislative fiat, say that when goods have come to rest the goods are classed as in interstate commerce, when historically after the goods have been moved across State lines and have come to rest they have become a matter of domestic and local concern and not under congressional jurisdiction?

Mr. MORTON. The amendment of the junior Senator from Kentucky does not go into that question at all. The amendment deals only with the wage rates for those workers who would come under whatever legislation we shall ultimately pass. I do not get into that question.

I agree with the Senator's position on the question, but my amendment does not go to that point. The amendment deals specifically with rates.

I would welcome the cosponsorship of the Senator from Ohio, if he should feel so inclined.

Mr. LAUSCHE. I should like to look over the amendment before deciding.

Mr. MORTON. It is on the Senator's desk. It is marked "4-14-61-A."

Mr. HUMPHREY. Madam President, will the Senator yield?

Mr. MORTON. I am happy to yield.

Mr. HUMPHREY. In order to clarify the parliamentary situation, what the Senator from Kentucky is suggesting is a modification of the amendment in the nature of a substitute offered by the Senator from Illinois, insofar as the wage provisions are concerned. The modification would be that the committee bill provisions on wages be placed in the Dirksen amendment in the nature of a substitute, leaving the Dirksen amendment in the nature of a substitute with limited coverage provisions as the major point of contest between the supporters of the administration bill and of the Dirksen amendment in the nature of a substitute, as modified.

Mr. MORTON. The Senator from Minnesota has stated it well and accurately. There is one minor exception, which I pointed out, that the newly covered workers under the terms of my amendment, as well as under the terms of the Dirksen substitute, would start at \$1.05 instead of \$1 as proposed by the committee in the so-called McNamara bill.

Mr. HUMPHREY. There would be an increase for the newly covered workers of 5 cents an hour.

Mr. MORTON. That would be the only difference. It is very minor.

Mr. HUMPHREY. The issue is quite clear, Madam President. The Dirksen amendment in the nature of a substitute, if modified by the amendment of the Senator from Kentucky, would include provisions with respect to wage rates identical to those in the committee bill, with the exception of the rate for the newly covered workers, which would be \$1.05 an hour. The provisions of the Dirksen amendment in the nature of a substitute relating to coverage would be sharply different from the provisions in the committee bill. On the issue of coverage, essentially, the vote would be taken.

Mr. MORTON. The Senator is correct.

Mr. HUMPHREY. I think the Senator from Kentucky has made the issue quite obvious for us. I am confident that someone from the committee will wish to make some comment in due time relating to the amendment.

Mr. McNAMARA rose.

Mr. MORTON. Does the Senator from Michigan desire to have me yield to him? If not, I reserve the balance of my time.

Mr. McNAMARA. Madam President, I yield myself 5 minutes.

At the outset I wish to say I am not speaking in opposition to and am not taking any position on the amendment of the Senator from Kentucky, because I understand the Senator is waiting to get an answer to his question as to whether the Senator from Illinois will accept his amendment. I shall speak with reference to the Dirksen amendment.

Madam President, the purpose of the legislation as proposed by the committee, which has the support of the administration, is to do a very simple thing—to raise the salaries of the lowest paid workers in the United States.

We become involved in a lot of technical questions, and we sometimes resort to pettifoggery to confuse the issue, but the issue is very simply stated. This is an attempt to raise the salaries of workers so that their living standard may be closer to the minimum American standard of living which is accepted in this country generally. That is the sole purpose of the proposed legislation.

The Dirksen substitute, Madam President, would establish a \$1.05 an hour wage rate for the newly covered workers. Those workers would stay at that wage rate, while other workers who are presently covered would have their wage rate go up to \$1.15 an hour.

Thus, under the Dirksen substitute, we would have two separate rates permanently, in effect making second-class citizens of one group of people. One group would be those receiving \$1.05, for all practical purposes, under the bill; the other \$1.15. The committee bill would eventually bring all workers covered under the act up to the \$1.25 minimum.

There is nothing new about a program of escalation. The original Fair Labor Standards Act had an escalation rate in it under which wages rose from 25 cents an hour to 40 cents an hour.

A number of the State laws calling for minimum wages have contained similar step-up provisions.

NO OVERTIME FOR NEWLY COVERED WORKERS

The Dirksen substitute would withhold overtime protection from those workers to whom it seeks to give new coverage.

By that provision one of the essential purposes of the Fair Labor Standards Act would be destroyed.

Retail workers are among those most in need of overtime protection.

Long hours are common in that industry.

The committee bill recognizes the need for an adjustment period in the retail field to enable employers to establish overtime provisions in their employment agreements. The committee bill allows employers 52 months to reach the 40-hour maximum workweek which has become the standard of employment.

I want to emphasize that those industrial groups which have particular problems because of particular working patterns have been exempted from overtime requirements under the committee bill. The provisions for overtime would not apply to seamen; employees processing seafood; employees of transit systems; employees of retail establishments engaged in selling automobiles, trucks, or farm implements; employees of gasoline service stations; and certain employees of establishments engaged in the bulk distribution of petroleum products.

NUMBER OF NEWLY COVERED WORKERS

Not the least of the defects in the Dirksen substitute is the fact that only 1.4 million workers would be given new coverage.

This compares to the committee bill's coverage of 4.1 million additional workers.

RETAIL FIRMS WHICH WOULD BE EXCLUDED

Finally, the Dirksen substitute would create economic inequities in the retail field. I would like to read just a few examples of companies which would be excluded under the Dirksen substitute.

One chain in California has 15 stores which sell apparel, accessories, and home furnishings, and another 5 stores engages in selling appliances. The company which operates these stores has nearly 7,000 employees, and its sales total about \$160 million annually.

A department store chain in Pennsylvania operates four department stores which have nearly 3,000 employees, and sales of over \$60 million.

A drugstore chain in Indiana has 49 stores, 1,500 employees, and sales of \$13 million. Another drugstore chain operates 22 stores in Texas, and has 500 employees and annual sales of over \$6 million.

A grocery chain operates 185 stores in the State of New York, has over 4,000 employees, and has sales of over \$150 million annually.

An Arizona company operates 29 supermarkets, has over 1,200 employees, and has sales of \$40 million annually.

On the other hand, thousands of little chain units would be covered. I refer all interested Senators to the list of such units which I inserted in the RECORD yesterday.

Mr. LAUSCHE. Madam President, will the Senator yield for a question directed to the Senator from Michigan?

Mr. MORTON. I am happy to yield.

Mr. LAUSCHE. Why cannot States such as California, New York, Pennsylvania, Texas, and others mentioned by the Senator from Michigan pass laws which would do for workers in those States with respect to wage and hour problems arising within them what it has been suggested the Congress ought to do for employees engaged in legitimate interstate commerce?

Mr. McNAMARA. My only answer is that the question suggests that we do nothing and that we ought to leave the problem to the States. The reason we need Federal legislation in this field is that, under existing circumstances, in States where nothing is being done, people are working for less than a reasonable salary, even though they work full time. The workers are still dependent on the Government or charity for handouts. I believe that when people work 40 hours a week they ought to receive a minimum of \$40 a week, which is the wage proposed for the uncovered workers.

Mr. CARLSON. Madam President, will the Senator yield?

Mr. MORTON. I yield.

Mr. CARLSON. I do not care to make inquiry regarding the pending amendment. The distinguished Senator from Michigan has devoted many months to the proposed legislation. I wonder if any thought has been given to what would be the general effect of the proposed legislation on wages in this Nation as a whole, assuming that the minimum wage is increased to \$1.25. Would not the proposed increase result in the per-

son who is presently receiving \$1.25 asking for \$1.40, and the person who is receiving \$1.40 requesting \$1.75? Then would not such an increase bring about a general increase in wages at a time when we are already suffering from severe competition with foreign countries? Has some study been given to that possibility?

Mr. McNAMARA. The question has been discussed every time proposed legislation in this field has been before us, including this year in committee. Certainly attention has been given to that possibility. There is no provision in the bill that would increase wages beyond \$1.25 an hour after an extended period of time?

Mr. CARLSON. Madam President, will the Senator further yield?

Mr. MORTON. I yield.

Mr. CARLSON. Is it not reasonable to assume that should the proposed legislation be enacted, those who are presently receiving \$1.25 will naturally insist, or at least request, increases in wages, and would there not at least be the possibility of a general wage rise in the Nation at a time when we are having the competitive problem about which I spoke?

Mr. McNAMARA. I expect the processes of collective bargaining to continue. I want them to continue. I believe the general feeling is that management and labor should continue to negotiate, and the guess of the Senator from Kansas is as good as my own as to what negotiators will do at the bargaining table.

Mr. LAUSCHE. Madam President, will the Senator yield?

Mr. MORTON. I yield to the Senator from Ohio.

Mr. LAUSCHE. I ask unanimous consent that I may be permitted to join the Senator from Kentucky as a sponsor of the amendment which he has offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORTON. I thank the Senator from Ohio for his support. I have no requests for time on our side. I ask the author of the substitute as to his pleasure with respect to having the question put on the amendment by revising the substitute to conform with the amendment.

Mr. DIRKSEN. Madam President, my concern with the entire bill has been on the questions of coverage and the commerce clause.

While I think of the impact of a wage increase on the country at a time like this, yet I would have no objection to modifying my own substitute to include the wage provisions of the Morton amendment.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. RUSSELL. Madam President, may we know what the amendment is upon which agreement is requested?

Mr. DIRKSEN. The amendment would be effective only as to the wage provision, and would provide that the wage be \$1.15 for the first 2 years and \$1.25 thereafter. The amendment would have no impact on the coverage.

Mr. HUMPHREY. Madam President, I ask for the yeas and nays on the Dirksen substitute.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the amendment in the nature of a substitute, as modified, as offered by the Senator from Illinois.

Mr. HUMPHREY. Madam President, has the Senator from Illinois exhausted all his time?

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. HUMPHREY. I yield back the remaining time in opposition.

The PRESIDING OFFICER. All time for debate has expired.

Mr. HUMPHREY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Am I correct in understanding that the question before the Senate is the amendment offered by the Senator from Illinois [Mr. DIRKSEN], in the nature of a substitute, as modified by the amendment offered by the Senator from Kentucky [Mr. MORTON]?

The PRESIDING OFFICER. The Senator is correct.

Mr. HUMPHREY. Am I correct in understanding that the modification relates to the wage provisions only, and does not alter the coverage provisions?

The PRESIDING OFFICER. The Chair has no authority to interpret the amendment.

Mr. HUMPHREY. I may say that I believe that that is a proper interpretation.

The PRESIDING OFFICER. The yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Washington [Mr. MAGNUSON] is absent on official business.

I also announce that the Senator from Virginia [Mr. ROBERTSON] is absent because of illness.

On this vote, the Senator from Washington [Mr. MAGNUSON] is paired with the Senator from Virginia [Mr. ROBERTSON].

If present and voting, the Senator from Washington would vote "nay" and the Senator from Virginia would vote "yea."

Mr. KUCHEL. I announce that the Senator from Wisconsin [Mr. WILEY] is absent because of death of his brother.

The result was announced—yeas 34, nays 63, as follows:

[No. 28]

YEAS—34

Allott
Beall
Bennett
Blakley
Boggs
Bridges
Butler
Byrd, Va.
Capehart
Carlson
Case, S. Dak.
Cotton

Curtis
Dirksen
Dworshak
Eastland
Ellender
Fulbright
Goldwater
Hickenlooper
Holland
Hruska
Lausche
McClellan

Miller
Morton
Mundt
Saltonstall
Schoeppel
Scott
Talmadge
Thurmond
Williams, Del.
Young, N. Dak.

NAYS—63

Aiken
Anderson
Bartlett
Bible
Burdick
Bush
Byrd, W. Va.
Cannon
Carroll
Case, N. J.
Chavez
Church
Clark
Cooper
Dodd
Douglas
Engle
Ervin
Fong
Gore
Gruening

Hart
Hartke
Hayden
Hickey
Hill
Humphrey
Jackson
Javits
Johnston
Jordan
Keating
Kefauver
Kerr
Kuchel
Long, Mo.
Long, Hawaii
Long, La.
Mansfield
McCarthy
McGee
McNamara

Metcalf
Monroney
Morse
Moss
Muskie
Neuberger
Pastore
Pell
Prouty
Proxmire
Randolph
Russell
Smathers
Smith, Mass.
Smith, Maine
Sparkman
Stennis
Symington
Williams, N. J.
Yarborough
Young, Ohio

NOT VOTING—3

Magnuson

Robertson

Wiley

So Mr. DIRKSEN's amendment in the nature of a substitute, as modified, was rejected.

Mr. MANSFIELD. Madam President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HUMPHREY. I move to lay on the table the motion to reconsider.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. RUSSELL. Madam President, I offer the amendment in the nature of a substitute which I submitted last week and had printed.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. In lieu of the language of the committee amendment, it is proposed to insert the following:

That this Act may be cited as the "Fair Labor Standards Amendments of 1961".

Sec. 2. Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows:

"(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section;"

Sec. 3. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(c), 13(a)(10), and 7(b)(3), and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data, and recommendations for further legislation

designed to simplify and remove the inequities in the application of such exemptions.

SEC. 4. This Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment.

VISIT BY THE PRIME MINISTER, THE MINISTER OF FOREIGN AFFAIRS, AND THE AMBASSADOR OF GREECE

Mr. MANSFIELD. Madam President, will the Senator from Georgia yield?

Mr. RUSSELL. I am glad to yield.

Mr. MANSFIELD. The Senate is extremely fortunate in having in the Senate Chamber at the present time three most distinguished guests from a country which has been most friendly and most contributory to the ideals of democracy.

The first guest to whom I wish to call the attention of the Senate is His Excellency Constantine Caramanlis, the Prime Minister of Greece. [Applause, Senators rising.]

Mr. MANSFIELD. Also His Excellency Evangelos Averoff-Tossizza, the Minister of Foreign Affairs. [Applause, Senators rising.]

Mr. MANSFIELD. And His Excellency Alexis S. Liatis, the Ambassador of Greece to the United States of America. [Applause, Senators rising.]

Mr. MANSFIELD. Mr. President (Mr. METCALF in the chair), after a consultation with the distinguished minority leader, and as a mark of respect for our distinguished visitors, I ask unanimous consent that the Senate now stand in recess for 10 minutes, so that the Members of the Senate may greet our distinguished visitors.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS

At 1 o'clock and 8 minutes p.m., the Senate took a recess until 1 o'clock and 18 minutes p.m., when it was called to order by the Presiding Officer (Mr. METCALF in the chair).

COMMITTEE MEETING DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I yield myself 1 minute on the bill.

I ask unanimous consent that the Committee on Government Operations may meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in

retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. MANSFIELD. Mr. President, I thank the Senator from Georgia for his courtesy.

Mr. President, the time consumed by the Senator from Virginia [Mr. BYRD] and by the Senator from Montana should be taken from the time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUSSELL. Mr. President, the substitute that I have offered has many virtues, at least one of which cannot be challenged. Every Senator who votes upon the substitute can understand the issues involved, for it is a very simple substitute.

The amendment in the nature of a substitute would increase the minimum wage for all of those who are presently covered by existing law to \$1.25 an hour in the two steps suggested by the administration, but would leave for future determination an issue which to me is perplexing and confusing, and that is the attempt to apply dollar standards to constitutional rights.

We are told that fortunate clerks in stores doing a gross business of \$1 million a year and having \$250,000 of business across States lines in, I assume, the purchase of materials and the commodities for resale, are entitled to constitutional relief at the hands of Congress, and that we have the right and the power to increase their wages. On the other hand, Congress is powerless to help those who work in stores that do only \$900,000 gross business a year, even though such store does \$600,000 of business across State lines.

What provision of our Constitution justifies such fantasy?

That simple comparison dispels forever the argument made time and again in this Chamber that the measure is an effort to help the poorest people in the country and those who are most in need of help.

I am familiar with conditions in my own State. I have not seen statistics for the Nation. I know as a practical matter that in my own State those who receive the highest wages for work in retail stores, filling stations, and laundries, are the ones who work for the larger laundries, stores, and filling stations. Those who undoubtedly have the lowest wage scale are those who work for laundries doing a business of less than \$100,000 or a store that is doing a \$200,000 a year business or a filling station that likewise has a small amount of business.

In my humble opinion the interstate commerce clause of the Constitution of the United States has already been severely tortured and stretched under the present rulings and regulations of the Department of Labor. Congress should give the most careful scrutiny to any proposal which undertakes to provide that the constitutional rights of the individual American citizen shall be measured altogether by a dollar standard. Any proposal that the Constitution should be applied merely in terms of the amount of dollar business that may be done by a concern is revolting to me. The picture is not black and white. If the right of Congress under the Constitution to legislate, covers one person who works anywhere in this land, it covers all persons engaged in similar work.

Some few of us who still remain in the Senate are more and more concerned during the passing days with the movement, driven by pressure groups that exercise a power and authority much greater than they actually deserve, to centralize all of the Government of the United States on the banks of the Potomac River in Washington.

We lament the passing of our great Federal system of dual government with sovereign States having powers guaranteed to them by the Constitution that we have all sworn to uphold and defend, and a Federal Government of limited powers that are specifically and explicitly spelled out in that document.

How can we ever preserve any rights to the States of this Nation if we do not leave to them the regulation and control of a retail grocery store? What is left to a proud State, other than a geographical designation, if the States does not have the right to regulate a laundry that cleans the clothes of the housewives of a small community?

We are gradually but relentlessly crushing and destroying the States save as names on a map. Today the drive continues. We do so under the whip of great pressure groups in this country. Why do they do so? I suggest that it is much simpler for them to come to the Congress of the United States and control one body of men, who are as susceptible as any to political pressures, than it is to elect or control a majority of fifty legislative bodies in the sovereign States. They do so because of the fact that their power is concentrated in the great cities of this land and they exercise a great influence upon the Federal Congress. They do so by control of the communication media of this land, and strong men in this body flinch and quail when the great press and television media of this Nation launch an attack on them and criticize them for their actions.

We are more susceptible here to the pressures of organized groups, whether they be veterans, labor organizations, or other groups, than are the several representative bodies that are supposed under our system to control the internal government within the States.

Sometimes I not only feel a sense of frustration, but also I feel that I can almost see the doom of the Federal system. Congress, under the whip of these

pressure groups, step by step continues to reach out and to seize control for the Central Government over the lives of our people in every little activity, every facet, every phase of their lives. We propose to increase that power in the bill.

Make no mistake. If the committee bill is passed this year, there will be another bill before the Senate next year that will be all encompassing, and will apply to everything from farm to factory and from ship to store throughout the United States.

When we make the Congress of the United States subject to the pressures of all of those who are covered by these bills, as we are today subject to the pressures of all of those who are covered by social security and those who receive benefits through the Veterans' Administration, we shall have in my opinion not only destroyed our dual form of government, but also the great economy and the great production machine that has given this Nation preeminence among all of the peoples of the earth.

We will have forever demolished the idea of being 50 States, 50 different laboratories for trying out different schemes and different plans, to see if they work. If a scheme works in one State, it may not be applicable in another State. If it does, it can be applied. If it is disastrous in one State, the other States do not have to embrace it.

Here we seem to be determined to pour all men into a federally supervised conformity mold—to pour them in when they are young and grind them out when they reach maturity, all of them exactly alike.

We cannot bring every power of government and every power to regulate the lives of people into one central place without at the same time destroying the dream of our Founding Fathers and the hopes that some of us have for those who follow us in this land.

Therefore, Mr. President, I offer the substitute, even though I believe the interstate commerce clause has already been tortured somewhat by regulations issued by the Department of Labor and by some decisions of the courts which enable the Federal Government to operate in this field, whether it is justified or not. The amendment would benefit all people without doing violence to our system and our economy and our free enterprise system which have made us the envy of the earth.

I yield 5 minutes to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator from Georgia for yielding to me. I share with him the view on the major point he has expressed with reference to the constitutional point that is so clearly presented by his amendment. As I understand, the Senator from Georgia proposes an increase in the wage rate, and to accept the coverage that exists now.

I voted against the Dirksen amendment a few moments ago because it would have carried with it in express form, law which, to me, is an obnoxious regulation that attempts to measure constitutional rights by a dollar sign, or by the dollar value of a split-level

volume of business which a firm may do or by which an employee who works for a firm may be affected.

As the Senator from Georgia has said, there is already a very strained over-interpretation of the interstate commerce clause of the Constitution. However, the proposed provisions with reference to adopting a dollar value, or a split-level volume of business, as a guide for a constitutional principle, has never been written into the law of the land. It is used now, as the Senator understands, by regulation of the Department of Labor, in figuring applications of the present law and in making certain discriminations with reference to matters in which the Department has some authority.

For us to adopt a formula of that kind into the hardened, established law through the passage of the pending bill would be to adopt the principle of these regulations without any basis or foundation or authority in the Constitution.

In my State I live near the Alabama line, and retail establishments in that area engage in what could be called interstate commerce, because there is a good trade at the retail level and other levels between the people of this area of our country. At the same time, there are parts of my State where there is virtually no trade of that kind.

It is now proposed that we pass a law which would put them all in the same straitjacket. This is a practical illustration in the everyday affairs of the lives of people which is an impractical way as well as an unconstitutional way of trying to get at a problem.

Furthermore, even though the proposal of the Senator from Georgia does carry some increase in the rate, it does not increase the coverage. We have in my part of the country—and I believe this is true everywhere else—a good many fine and valued citizens who cannot actually earn the amounts which are proposed in order for them to be retained under the extended coverage. If they do not earn it, they will soon lose their jobs. I attended a convention last fall where there were over 3,000 people in the hotel attending the same convention. There was not a single elevator operator to take care of that vast crowd as they thronged back and forth from their meetings to the banquets and to their rooms. Everything was automation. The hotel manager told me the rates had become so high that the hotel had installed the elevators at enormous expense, solely because it would save them money; that he was forced to lay off employees who had been elevator operators and who had been an asset to their organization. There is no doubt that many such fine people in small establishments, who would be brought under the provisions of the other bill, would have to get out and look for other jobs. Most of them would not be able to find other jobs, simply because they could not earn enough to carry the load of the added burden imposed, not only on the employee, but on the business, as well.

So, Mr. President, I hope we can, in this atmosphere of practical reasoning,

commonsense, logic, and down-to-earth application of the facts of life to our responsibilities, consider the amendment and consider the bill, and then take the approach presented by the amendment rather than one that might be the result of pressure groups. They have a right to be considered, of course, because they have an interest. However, we should not adopt their pattern in one form or another in passing legislation of this kind on the ground that it helps someone, when it will sweep many more into oblivion.

If we keep on along this path, I believe it will be only a few years before the States will have no more power or responsibility, even in the economic affairs of their people, than a county board of supervisors now has. I believe we are rapidly reducing our States to a status where they will be so overwhelmed by these far-reaching bills, in the field of our economy, that all other powers will be gradually, and by inference, swept away.

In the opinion of the Senator from Mississippi, once the economy has been controlled down through hours and wages, and in every other way, then the people will be controlled in their other rights and activities. A halt should be called to this movement. I hope the amendment will be adopted.

Mr. McNAMARA. Mr. President, in the absence of the majority leader, I yield myself the necessary time in which to make a short reply.

The purpose of the amendment has been stated very frankly by the distinguished Senator from Georgia [Mr. RUSSELL] and the distinguished Senator from Mississippi [Mr. STENNIS]. It is to prohibit the extension of coverage to any additional workers. The amendment accepts the increase in the minimum wage which we have proposed in our bill. The distinguished Senator from Georgia indicates that we might just as well propose a \$100,000 cutoff or a \$1 million cutoff. Certainly I have no quarrel with that, but the proponents of the extension of the minimum wage desire that \$1 million figure. They do not wish a figure of \$100,000.

Mention has been made of pressure groups. Certainly everyone in the country, especially those concerned with labor and management, has some idea of what is being proposed. I think those who have come to Washington to express themselves before the committees of Congress have self-serving interests, and to refer to them as pressure groups is, I think, quite proper. I like to think of them as self-serving persons who have come here to present their views and arguments. Certainly they have spoken on both sides of minimum wage legislation over a long period of years.

The argument about States' rights has been made. I feel certain it will continue to be made. My only answer is that under the present circumstances the determination is left to the States. It is not satisfactory to the administration or to the Committee on Labor and Public Welfare to continue in the present manner, because too many persons are not receiving anything like an adequate

wage, and the purpose of the proposed legislation is to make certain that they do.

It has been charged that this proposal will ultimately reduce wages rather than increase them. The history of the approximately 25 years of existence of the minimum wage law indicates that that is not true.

The opponents argue that the bill will have an escalator effect which will not only raise wages which are now below \$1.25, but will also raise wages which are now above \$1.25. For them to say in the same breath that wages will be reduced is to argue against their own position. The history of the law indicates that the bill will increase the income of the lowest paid workers. That has been the experience in the past three decades.

I hope the amendment will be rejected. Mr. RUSSELL. Mr. President, I yield 3 minutes to the distinguished Senator from North Carolina.

Mr. JORDAN. Mr. President, in support of the amendment of the Senator from Georgia, I should like to ask him a question or two. Is it not true that many smaller stores which would be brought under the bill would not be brought under the \$1 million coverage, and would therefore have a big advantage over the store doing a million dollars worth of business?

Mr. RUSSELL. That is one objection to the committee bill.

Mr. JORDAN. That is one objection. It is now the law of the land that selling prices must be kept in line. If the wage which one man must pay is 75 cents an hour, while the wage which another man pays is \$1.25 an hour, the man who pays the higher wage cannot compete with the man who pays the lower wage. Pretty soon the big merchant will be down where the little one is.

Mr. RUSSELL. I think the Senator's logic is inescapable.

Mr. JORDAN. I have made many visits to small stores, especially variety stores, whose total volume of business is not in the \$1 million area. They employ many persons of advanced age who cannot save large sums because of their inability to do so. If those merchants were forced out of business, their employees would simply be out of jobs. I do not know of anyone else who would employ them, because they are not capable of employment in other fields. Has the Senator from Georgia found that to be the case?

Mr. RUSSELL. I think there is no question that many people, due to physical disabilities or other difficulties, now have work which pays them less than \$1.25 an hour. If the proposed coverage is extended to them, they will in all likelihood lose the jobs which they now have, because their employers simply cannot pay them \$1.25 an hour.

Mr. JORDAN. I should like to reiterate a statement which the Senator from Georgia made earlier. Perhaps the next Congress will drop the cutoff point to \$200,000, and the next Congress will drop it to \$100,000.

Mr. RUSSELL. The Senator from Michigan indicated that that would be the course.

Mr. JORDAN. The Senator from Michigan indicated that that is probably what will take place. Pretty soon everybody will be controlled.

Mr. RUSSELL. I am opposed to using the dollar sign as the only measure of the rights of our people under the Constitution. Let us consider two laundries, one doing \$1 million worth of business, and another laundry doing exactly the same amount of business. One of them might lose a shirt which had been sent in to it for laundering. If the cost of the shirt were deducted from that laundry's gross business, it would exempt that laundry from coverage under the bill. The laundry which did not lose a shirt would be covered by the bill, on the theory that it was affecting interstate commerce.

Mr. JORDAN. I thank the Senator from Georgia.

Mr. RUSSELL. Mr. President, I yield any remaining time which I may have to the Senator from Florida.

Mr. HOLLAND. Mr. President, I strongly support the amendment in the nature of a substitute offered by the distinguished senior Senator from Georgia. I think it runs to the heart of the problem. It distinguishes clearly between that part of the bill which seeks to affect persons who are already covered by the present law, and the multifarious provisions which bring in, under all sorts of situations, other workers who happen to be working in other industries, most of which have always been regarded up to this time as intrastate rather than interstate in character.

It would be amusing to hear Senators who sponsor the bill say that no constitutional question is involved, were it not for the fact that there is involved a constitutional question of such complete complexity that no one can figure out how it will be interpreted; and if it were properly interpreted by the Court, in accordance with the wishes of the advocates of the bill, at least, as to how it would operate. That is the provision on page 14 of the bill, which attempts to change the constitutional ground upon which the Supreme Court has decided the Schechter case and other cases, by actually providing that the bill applies to those working upon goods which have been moved into a State in interstate commerce and have come to rest there, and which by contemplation of other laws and Supreme Court decisions would from that time forth be subject to the laws of the State in which they came to rest. Senators will find that provision stated on page 14, lines 8 and 9 of the bill.

There is no question about its being there, and there is no question that if the provision were interpreted as intended by the offerers of the bill, it would effect a very great change in the constitutional interpretation by the highest Court as to what constitutes interstate commerce and what constitutes intrastate commerce. That question exists, and how it would affect the bill, no one knows. How it would affect the millions of people who are proposed to be brought under the provisions of the bill, no one knows. I simply call attention in passing to the fact that that pro-

vision is in the bill, and that it runs directly to the question of what constitutionally may be regarded as interstate commerce coming within the purview of the Federal Constitution and laws, and of what should be held to be intrastate commerce, reserved to the States for handling.

However, I shall not dwell upon that point now. I simply wish to point out the completely complicated structure of the bill, under which one rule is sought to be applied to one type of business and its employees, and another rule and another measure to other businesses and to their employees. For instance, in the case of retail stores, the cut-off figure is \$1 million. That is to be found on page 15 of the bill, in line 9.

Four lines further along it is stated that the cut-off provision under which construction businesses or reconstruction businesses and their employees shall be brought under the provisions of the bill is \$350,000. And three lines further along it is stated that any gasoline service establishment comes under the provisions of the bill at the figure \$250,000.

What more monstrous complexity could be found than to have the same bill, in the course of a very few lines, provide one standard by which the employees of one type of business would be governed, and another standard by which the employees of a business just across the street or just next door would be governed?

Mr. ERVIN. Mr. President, at this point, will the Senator from Florida yield for a question?

Mr. HOLLAND. I yield.

Mr. ERVIN. I ask the Senator from Florida whether those differences in monetary amounts do not raise a serious question of constitutionality, under the decisions that classifications for the purpose of regulation must be reasonable. Is there any reasonable distinction between making a filling station subject to the act if it does a gross business of \$250,000, and making a retail establishment subject if it does a gross business of \$1 million. Is there any reasonable basis for making such a drastic difference as that in classification?

Mr. HOLLAND. No such basis for distinction which would be reasonable is known to me, and I appreciate the courtesy of the Senator from North Carolina in calling attention to this fact.

Mr. ERVIN. The due process clause of the Constitution applies to the Federal Government. So I ask the Senator from Florida this question: Is it not true that it has been held that under that clause, a person is deprived of his property without due process of law if he is placed under a regulation which is more severe than that which is applied to others, if there is no reasonable basis for making such a distinction?

Mr. HOLLAND. Certainly there is every reason to believe that it would be unconstitutional for such a distinction to be made by this measure, if it is enacted. That is but another manner in which the constitutionality of this measure would be brought under consideration and would have to pass the scrutiny of the courts.

Mr. President, in a moment I shall be through. At this point I wish to refer to the provision of the bill in regard to laundries. Senators will note on page 14, in subdivision (2) of paragraph (s), a provision to the effect that a \$1 million standard is to be applied in connection with the annual gross volume of sales of a laundry, in order to have it come within the purview of the proposed law. But on page 30, in line 17, we find that in addition to that \$1 million limitation, there is also set forth, to apply to laundries, but not to any others—a provision which is proposed in order to protect competition among laundries, although there is no such provision in regard to protecting competition among grocery stores, gasoline filling stations, construction businesses, or other businesses covered by this measure. I now read the provision on page 30, beginning in line 14:

this exemption shall not apply to any employee of any such establishment which has an annual dollar volume of sales of such services—

That is to say, laundry services—of \$250,000 or more and which is engaged in substantial competition in the same metropolitan area with an establishment less than 50 per centum of whose annual dollar volume of sales of such services is made within the State in which it is located; * * *

In other words, the competition feature is made applicable by the imposition of a different standard as regards laundry businesses, depending upon whether there is sufficient competition; but, to the contrary, our good friends who drew up this bill must have decided that there is no such thing as competition as regards grocery businesses or hardware businesses or any of the other retail businesses and services covered by the bill, because in the bill there is no recognition of the fact that a store next door to a retail store which is doing an annual business of more than \$1 million is in competition with the larger store, even though its volume of business is only a few thousand dollars below the \$1 million gross business figure provided at that point in the bill.

In fact, Mr. President, the entire bill is full of both complexities and absurdities of the type I have mentioned just now; and they present matters which not only will invite the attention of the Court, but also—and I believe this is even more serious—will make people wonder why their businesses are treated differently by the Congress, away off in Washington, from the way businesses next door or across the street are treated.

Mr. President, such provisions make no sense to me. The bill is so complicated, so abstruse, so unusual, and proposes such very different standards to be applied as between different businesses and as between hundreds of thousands of persons throughout the Nation who are employed by different businesses, that I do not believe the bill is worthy of serious consideration by the Congress.

Mr. MONRONEY. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I yield.

Mr. MONRONEY. In line with the statement the distinguished Senator has

been making about the inconsistency of the bill, I wonder whether he has noticed, on page 14, another glaring inconsistency. At that point, where the bill presumes to bring retailers under the commerce clause, the committee has established what it calls an input of commerce amounting to \$250,000 a year or more. I may say that brings retailing under the bill if it has an input of \$250,000. But the bill does not state whether it is input at wholesale cost, which perhaps would be \$150,000 or \$175,000, or whether it is input at retail or input at wholesale, plus freight.

Furthermore, in paragraph (2) there is a glaring inconsistency by which laundries which do an annual gross volume of business of \$1 million would be brought under the provisions of the bill; and no input requirement is made in that connection. Although the bill has a \$250,000 input requirement in regard to retailing, the bill ignores that standard when it deals with laundries—perhaps because the laundries cannot purchase that much soap a year.

And in paragraph (3) there is no such input requirement in regard to streetcars or buses; and in paragraph (5) there is no such input requirement as regards the construction trade; and in paragraph (6) there is no such requirement in regard to gasoline filling stations. The only requirement as to them is a certain dollar volume of sales.

All of this seems to me to be a most glaring inconsistency. If the bill is to be consistent in holding that a certain amount of input will cause a business to come under application of the commerce clause, then the input requirement should be applied equally to all the other businesses dealt with in these paragraphs.

Mr. HOLLAND. I thank the Senator from Oklahoma. He has cited numerous instances similar to the ones I cited a few minutes ago. In fact, many more of them can be cited, because the bill is full of inconsistencies which, in my view, at least, amount to monstrosities. The Senator from Oklahoma certainly has made an important contribution when he has referred to the additional discrepancies as between the businesses he has mentioned and others which are dealt with in the bill.

Mr. JORDAN. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I yield.

Mr. JORDAN. Is it not true that a retail establishment doing \$1 million of business a year must compete with neighboring stores selling exactly the same kinds of merchandise—for instance, dresses or shoes, or other commodities?

Mr. HOLLAND. Of course that is correct.

Mr. JORDAN. Our State has a minimum wage law of 75 cents an hour. That law was passed after long debate in our State legislature; it took the legislature several years and several terms to pass that law, because the members of the legislature knew what was the going wage in North Carolina and knew the requirements of the population.

Is it not a fact that a business which today does \$1 million of gross annual

business very likely will not do that much business very long, if this bill is enacted into law, because the smaller business will put it out of business?

Mr. HOLLAND. I am glad the Senator from North Carolina has referred to that point; and I am glad that he and his able colleague have decided what I think is elementary under our system of law; namely, that it is entirely proper to have a measure dealing with this subject, one which reaches into every community and every State, dealt with by the States' legislators, who are selected periodically and frequently by the people of the States, and know the standards of work and pay and working hours and conditions which prevail in their States. The Senator has, by implication, in his most recent statement made entirely clear that he is perfectly willing to accord to the North Carolina legislators the ability to deal with this problem as it exists in North Carolina—an ability which he knows they possess.

Mr. JORDAN. I certainly am, because I think every State knows about its problems and its own conditions much better than does someone in Washington. I would not try to tell the people in Michigan, for instance, what I think they ought to be paid, because I do not know what they ought to be paid. So I do not think we should let anybody from outside a State tell the people in that State what they ought to be paid. I think we are going to do a lot of people much harm if we enact the legislation proposed here today. Many more will be put on the relief rolls. Instead of giving people jobs, we are going to put them on relief. I am not going to support legislation which is going to hurt people instead of help them.

Mr. HOLLAND. I approve of the sentiments expressed by the Senator from North Carolina. I think he has pointed to one problem implicit in this whole matter. At a time when we are struggling with the problems of unemployment and when we are bending every effort to meet those problems, here we have a suggestion which is going to bring, as surely as we are talking here today, additional unemployment, as well as ruin to employers, who will not be able to continue to employ people who now have jobs.

I thank the Senator for yielding to me. I yield the floor.

Mr. RUSSELL. Mr. President, I yield my remaining time to the Senator from Colorado [Mr. ALLOTT].

Mr. ALLOTT. Mr. President, how much time remains?

The PRESIDING OFFICER. The proponents have 7 minutes remaining, and the opponents have 9 minutes remaining.

Mr. ALLOTT. First, Mr. President, I thank the Senator from Georgia for yielding this time to me, because I want to use it not only to support his amendment, but to explain my philosophy in regard to the bill. It is quite akin to that which has been expounded by the Senator from Georgia, the Senator from Mississippi, the Senator from North Carolina, and the Senator from Florida.

I wish to speak, in a preliminary way first, about the State aspects of the bill.

I believe implicitly that the States can take care of the problem to which the bill relates much better than the Federal Government ever can. There is no greater confession of the weakness of the bill as a piece of Federal legislation than the fact that the bill begins by making a great inclusion, and then continues by making dozens of exceptions. In itself this is a confession that the bill tramples in an area where the Federal Government has no business legislating as a matter of right. It is a confession that the bill should not be here.

As a member of the Committee on Labor and Public Welfare, although not in the last 2 years, I listened to many, many days of testimony. I have heard those who propose this type of legislation state, time after time, unequivocally, that, without a doubt, the cost of living is the same, in every little town and hamlet in the United States, as it is in Washington, Detroit, and New York, for example.

Those who propose this legislation proceed on the assumption that the same living standard and the same cost of living applies all over this country. That is a false assumption. The Legislature of my own State of Colorado is better qualified to impose a minimum wage for the citizens of the State, and has the right to do so by virtue of its sovereignty. Contrary to the opinion expressed by those who have testified before the Labor and Public Welfare Committee, over and over again, Colorado has recognized that there is a difference in living costs even within the State. As a result it has placed in the law three different wage rates and wage scales applicable within the State of Colorado.

I personally would rather rely upon the judgment of the lawmakers of Colorado rather than the judgment of those who come before the Senate Labor and Public Welfare Committee and say that the cost of living is on an equal basis all over the United States. It is not.

Let us take a look at another aspect of the bill. It proposes to establish the criterion of \$1 million in gross sales for retail establishments. In the same paragraph there is the additional proviso relating to the purchase or receipt of goods which move across State lines, amounting to \$250,000 or more. In my opinion, the figure of \$250,000 is utterly meaningless. That amount could just as well have been left out, because the number of businesses which will be exempt by reason of the \$250,000 limitation is at an absolute minimum. I can hardly think of a business in my State or in surrounding States which will do \$1 million in gross sales and which would be excluded because it has an input of goods moving over State lines amounting to less than \$250,000.

Let us look at how ridiculous the bill is from another standpoint. One of the enterprises that will be considered to come under the pending measure is one with which we are all familiar, namely, grocery stores. If a grocery store sells more than \$1 million worth of goods a year, it is taken for granted that it is included within the bill. I do not think anyone could show a grocery store in that category which does not import

more than \$250,000 worth of products over State lines. So again the \$250,000 figure becomes meaningless; but, more than that, we make a false standard applicable. Today, a grocery store having gross sales of \$1 million nets—not grosses, but nets—in the neighborhood of 1 percent. Thus, if the bill be enacted and if a grocery store, for example, has sales of \$1 million or more, and the owner of that store makes a net of 1 percent, or \$10,000, we classify it as a business of such magnitude as to make it a business affecting interstate commerce.

As has previously been pointed out very ably, subparagraph (s) on page 14 of the bill goes far beyond any criteria used in previous bills as affecting interstate commerce.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ALLOTT. I yield myself 3 minutes on the bill.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 3 minutes.

Mr. ALLOTT. In concluding, I desire to make my statement clear, because it covers the course of action I intend to follow in voting for the amendment. I voted for the previous amendment because I felt it minimized the impact and the effect of the bill. I shall vote for this amendment because I think it is much sounder. I believe that to place a business in interstate commerce on the basis or premise of its total sales is false and is getting at the problem in the wrong way.

I intend to vote for any amendment or bill which goes back to the traditional, real, and, in my opinion, constitutional, concept to place business in interstate commerce.

So far as I am concerned, and I am sure the voters of Colorado at least confirmed this view last year, I intend to be guided by that philosophy.

I shall support the Monroney amendment, if it is offered, because we are getting off base when we put in the bill these false criteria.

Mr. McNAMARA. Mr. President, I yield myself 1 minute, for the purpose of reply.

Much has been said about States' rights, and the rights of States to enact minimum wage laws. We certainly agree the States have that right. However, as was stated by the Senator from North Carolina, minimum wages have been established of \$30 a week for 40-hour weeks. It is the position of the committee that such a minimum is not a high enough wage for people to live on.

An argument is made in regard to constitutionality of the bill. We shall hear this argument for a long time. Only the courts can decide the question.

Much has been said about the fact that a dollar amount is provided, rather than another test with regard to the interstate commerce effect, under the terms of the bill. The limitation in regard to a quarter million dollars is to indicate that in retail trade there must be a marked effect on interstate commerce.

I think, all in all, the bill is reasonable. It is a moderate bill to accomplish what

we started out to do. I certainly hope the amendment offered by the distinguished Senator from Georgia will be rejected.

Mr. President, we are prepared to yield back the remainder of our time.

Mr. RUSSELL. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. RUSSELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RUSSELL. Has all time been yielded back?

The PRESIDING OFFICER. The time of the Senator from Georgia has expired. Does the Senator from Michigan yield back his remaining time?

Mr. McNAMARA. I am happy to yield back my remaining time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment in the nature of a substitute offered by the Senator from Georgia [Mr. RUSSELL]. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. ROBERTSON] is absent because of illness.

On this vote, the Senator from Virginia [Mr. ROBERTSON] is paired with the Senator from Kentucky [Mr. COOPER]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from Kentucky would vote "nay."

Mr. KUCHEL. I announce that the Senator from Wisconsin [Mr. WILEY] is absent because of death of his brother.

The Senator from Kentucky [Mr. COOPER] is detained on official business and on this vote is paired with the Senator from Virginia [Mr. ROBERTSON]. If present and voting, the Senator from Kentucky would vote "nay," and the Senator from Virginia would vote "yea."

The result was announced—yeas 34, nays 63, as follows:

[No. 29]

YEAS—34

Allott	Dirksen	Miller
Beall	Dworshak	Mundt
Bennett	Eastland	Russell
Blakley	Ellender	Schoeppel
Bridges	Ervin	Smathers
Butler	Fulbright	Stennis
Byrd, Va.	Goldwater	Talmadge
Capehart	Hickenlooper	Thurmond
Carlson	Holland	Williams, Del.
Case, S. Dak.	Hruska	Young, N. Dak.
Cotton	Jordan	
Curtis	McClellan	

NAYS—63

Alken	Boggs	Cannon
Anderson	Burdick	Carroll
Bartlett	Bush	Case, N.J.
Bible	Byrd, W. Va.	Chavez

Church	Keating	Moss
Clark	Kefauver	Muskie
Dodd	Kerr	Neuberger
Douglas	Kuchel	Pastore
Engle	Lausche	Pell
Fong	Long, Mo.	Prouty
Gore	Long, Hawaii	Proxmire
Gruening	Long, La.	Randolph
Hart	Magnuson	Saltonstall
Hartke	Mansfield	Scott
Hayden	McCarthy	Smith, Mass.
Hickey	McGehee	Smith, Maine
Hill	McNamara	Sparkman
Humphrey	Metcalf	Symington
Jackson	Monroney	Williams, N.J.
Javits	Morse	Yarborough
Johnston	Morton	Young, Ohio

NOT VOTING—3

Cooper	Robertson	Wiley
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So Mr. RUSSELL's amendment in the nature of a substitute was rejected.

Mr. HUMPHREY. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. McNAMARA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLAND. Mr. President, I ask that my amendment identified as "4-13-61—O" be reported.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. HOLLAND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment offered by Mr. HOLLAND is as follows:

On page 13, beginning with line 6, strike out through line 2 on page 16, and insert the following:

"(r) 'Transit carrier engaged in commerce' means a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, which has employees engaged in commerce or in the production of goods for commerce."

On page 17, lines 6 and 7, strike out "in any enterprise engaged in commerce or in the production of goods for commerce" and insert "by any transit carrier engaged in commerce".

On page 18, line 16, beginning with "(1)" strike out through "(6)" in line 20 and insert the following: "(1) is employed by a transit carrier engaged in commerce, as defined in section 3(r)".

On page 24, line 17, beginning with "(1)" strike out through "(11)" in line 23.

On page 27, line 13, strike out "or enterprises" and insert "or transit carriers".

On page 27, lines 16 and 17, strike out "in any enterprise engaged in commerce or in the production of goods for commerce" and insert "by transit carriers engaged in commerce".

On page 27, lines 21 to 23, strike out "any enterprise engaged in commerce or in the production of goods for commerce" and insert "the activities of any transit carrier engaged in commerce".

On page 28, beginning with line 6, strike out through line 21 on page 30 and insert the following:

"(1) any employee employed in a bona fide executive, administrative, professional, or local retailing capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act); or

"(2) any employee employed by any retail or service establishment, more than 50 percentum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located. A 'retail or service

establishment' shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

"(3) any employee employed by any establishment engaged in laundering, cleaning or repairing clothing or fabrics, more than 50 per centum of which establishment's annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, or communications business; or".

Amend the title so as to read: "An Act to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for certain employees engaged in commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes."

Mr. HOLLAND. Mr. President, actually eight amendments are included in one amendment, but the first seven are technical amendments of form alone. The meat of my proposal is found in the eighth amendment, line 20, page 2, of the printed amendment.

The first seven amendments are necessitated by the fact that the transit coverage in the bill is bracketed with the retail and service establishments coverage, so as to make it necessary to restate in seven different cases of the earlier sections, in order to include in each case the transit carriers, with which my amendment is not concerned.

The practical effect of the amendment would be to retain the retail and service exemption in section 13(a) (1), (2), and (3) of the present law. To accomplish this result, it strikes language in the committee substitute which is inconsistent with this objective and restores in the substitute the present language of section 13(a) (1), (2), and (3) with two minor, noncontroversial, technical changes which are now in the substitute.

There are a number of reasons, Mr. President, why the retail and service exemption in the present law should be retained and why it would be unwise, unsound, and not in the best interests of our country for these exemptions to be abandoned. Some of these reasons relate to the harm such proposed coverage would do to the employees for whose alleged benefit the extension of coverage is proposed. Some of them relate to the harm which would result to the American businessman who employs these people. Other reasons relate to the harm which would result to our country during these precarious times.

First, as to the employees themselves, the proposed coverage would mean unemployment. There are a number of letters in my files from retail and service businessmen in Florida indicating that their work forces would be curtailed by such an artificial floor on wages. I feel confident that other Senators have received similar correspondence from businesses in their own States. The tragedy of such unemployment, Mr. President, would be that it would principally affect marginal workers who would have great difficulty in finding other employment. Small as their present wages may be,

they are in accord with the economic realities. The consequences to these people of disregarding their productivity in fixing their wages would be to take away their opportunities for earning a living.

A number of surveys have clearly shown that this would be the natural consequence of wage-hour coverage of retail and service businesses. In the report of the Department of Labor on the effects of the 1955 minimum wage increase the following conclusion was stated:

The Wage and Hour Division's studies of the economic effects of the \$1 minimum wage show that, during the period of adjustment to the higher minimum, there were significant declines in employment in most of the low-wage industry segments studied.

That is a statement by the Secretary of Labor, who himself had strongly supported the changes made.

A survey reported in the January 1961 edition of Nation's Business reports the conclusions of retail establishments scattered throughout the Nation that extension of coverage would compel them to reduce their work forces.

A survey conducted by the Charleston, W. Va., Chamber of Commerce showed that wage-hour coverage for retailers would mean a loss of a total of approximately 159 employees in 25 retail establishments studied in Charleston.

Mr. RANDOLPH. Mr. President, will the Senator from Florida yield, or would my interruption break the continuity of his remarks?

Mr. HOLLAND. I am glad to yield, provided that the time for yielding will come out of the time on the bill allotted to the proponents.

Mr. RANDOLPH. That is agreeable.

Reference has been made to a survey of retail establishments in Charleston, W. Va. The findings were, in part, the reason for correspondence in which I have participated. The subject encompasses certain letters exchanged between Robert S. Baer, a member of the Board of Directors of the Charleston, W. Va., Chamber of Commerce and the senior Senator from West Virginia.

Mr. Baer wrote not only as a member of the board of directors of that worthwhile business organization, but also he addressed his letter to me in his capacity as the representative of the mercantile division of the Charleston Chamber of Commerce. A copy of his communication was thoughtfully and properly provided to the knowledgeable Senator from Florida, who is now speaking. I have replied to Mr. Baer, and have provided the Senator with a copy of my response. Mr. Baer wrote me in a temperate and thoughtful manner, and I have attempted to reply in kind.

It seems appropriate that I ask unanimous consent to have printed at the proper place in the RECORD, which would seem to be at the conclusion of the remarks of the illustrious Senator from Florida, the communication to me by Mr. Baer and my reply to him.

Mr. HOLLAND. Mr. President, I have no objection.

There being no objection, the letters were ordered to be printed in the RECORD.

(See exhibit 1.)

Mr. HOLLAND. Another way in which this proposed coverage would hurt the American worker, for which it is allegedly proposed, would be through inflation. Those who would be so fortunate as to retain their positions at the higher wage rates would find themselves fighting a losing battle against an ever-rising cost of living. They would find themselves robbed of the purchasing power of the dollars which they have set aside to meet emergencies and to provide for their old age. This would be an inevitable consequence of increasing the cost of retailing which would be reflected in prices of goods sold at retail.

Besides these detriments to the American worker, this extension of coverage would result in great damage to the retail and service employer. That Federal wage-hour coverage is not appropriate by its very nature to local retail and service businesses was recognized when the act was first enacted in 1938. President Roosevelt, in requesting this legislation, said:

Although a goodly portion of the goods of American industry move in interstate commerce and will be covered by the legislation which we recommend, there are many purely local pursuits and services which no Federal legislation can effectively cover.

There are many characteristics of local retail and service establishments which distinguish them from the type of activity which has been predominant in the act's coverage. Retailers in widely separated locations are seldom, if ever, in competition with each other, as is the case with manufacturers. Retailing is subject to the unpredictable habits of customers, and a retailer cannot control the output and productivity of his employees as effectively as can a manufacturer. In retailing there are large numbers of learners, older people, housewives, and young people. If we disregard these vital differences, we will be causing great hardship upon small local retail and service enterprises.

Some people have received the impression that the only objection to local retail and service coverage is to the wage provisions. Equally obnoxious to the average retailer would be the unnecessary overtime complications which would be encountered with reference to employees who already receive much more than the proposed \$1.25 minimum. Overtime regulations are extremely complex and the burden of compliance would be very great.

Perhaps even more important, Mr. President, than the adverse effect of this proposed coverage upon the individual American employee and employer would be its adverse effect upon our Nation as a whole. The proposed extension of coverage is in direct conflict with three great national objectives which have been announced as such by our new President and are now being pursued by the Congress. The first is to make better use of our human resources and to put the millions of unemployed Americans

back into productive employment. The effect of minimum wage coverage for local retail and service businesses will be to force them to curtail their hours and to spread their sales personnel thinner. They will be more reluctant to hire the older people, who figure so prominently in unemployment statistics today. I recently received from Mr. J. E. Webb, a St. Petersburg, Fla., retailer, a letter regarding the effect of coverage upon his employment policy. He reported that 583 of his 1385 employees are over 50 years of age; that they are good employees and fine people, but tend to be slower than younger people; and that if his retail establishment were included in wage-hour coverage, he would be forced to—in his own words—“replace the greater majority of these older people for younger help.”

The second national objective which this proposed coverage would frustrate, Mr. President, is to combat inflation. This is a matter of extreme importance to America's retired people, teachers, ministers, and white-collar workers, and to all others who must live on small, fixed incomes. It is cruel, indeed, for us here in Congress to pass legislation which saps purchasing power from the dollars on which these people must depend.

In the hearings on last year's bill, President Meany, of the AFL-CIO, made the following candid statement:

Let us begin by recognizing that the earnings of millions of American workers are keyed directly to the Federal minimum wage.

Mr. Max Greenberg, president of the Retail, Wholesale & Department Store Union, testified to like effect.

Mr. President, during this debate little attention has been given to the unquestioned fact—as admitted at the hearings last year by two great leaders of organized labor—that wage structures for industrial workers who bargain collectively are keyed to, and are based upon, the minimum wage. This means that if we enact the proposed extended coverage, we shall be forcing a spiral of wage raises for those who currently are receiving higher wages than the statutory minimum. This, in turn, will bring another round of inflation, which will bring great hardship and suffering to those who must depend upon savings and fixed salaries.

Mr. President, we should not and we cannot minimize the importance of this point; namely, that when we are attempting to increase the minimum wage applicable to the employees of the great number of industries dealt with by the bill, we are advocating a spiral of increasing wages in all the other industries, and the result will be a decrease in purchasing power and additional inflation which will cause the entire Nation to suffer.

Inflation would also handicap us in pursuing our third important national objective at this time—namely, to reverse the trend of the present unfavorable balance of payments and to make our products competitive in world markets. The inevitable consequence of artificial increases in costs of produc-

tion is an increase in the price of American goods in world markets. This puts the American businessman at a disadvantage, and results in a decrease in exports. Such forced price increases also put him at a disadvantage within our own country, and lead to an increase in imports and to further competition from that source. Thus, there is a double setback for our country, in relation to its balance of payments problem.

In addition to the unwisdom of the proposed coverage from the standpoint of these three important objectives, it would also be unwise from the standpoint of adding additional administrative burdens to an already overburdened Federal Government. It is axiomatic that the most crucial functions of the Federal Government today are the conduct of foreign affairs and the maintenance of an adequate Defense Establishment.

When the Federal Government undertakes to regulate local businesses, it must spread its resources thinner and will jeopardize its ability to carry out effectively its primary functions.

Finally, the proposed coverage would weaken the constitutional safeguards of our freedom. It flies in the face of Supreme Court decisions which have held attempted regulation of retail wages and hours invalid when the goods have “come to rest” within a State. Justices of the Supreme Court, such as Mr. Chief Justice Hughes and Mr. Justice Cardozo, have pointed out in learned opinions that unless there is a strict differentiation between that which has a direct effect and that which has only an indirect effect upon interstate commerce, the interstate commerce clause becomes all-encompassing and there is no effective limit upon Federal regulation under the interstate commerce clause.

For these reasons, Mr. President, I urge my colleagues to support my amendment and to defeat this proposed coverage. If we do not do so, we shall be visiting undesirable consequences upon Americans who work or aspire to work in such businesses, upon the owners of those businesses, and upon our Nation as a whole.

Mr. President, Senators are attempting to tamper with something which has been a part of this legislation since 1938. It was made such, first, by implication and by the statements of its original authors and sponsors and, second, by specific amendment voted by an overwhelming vote of Congress in 1949.

We scarcely have had an opportunity to explain the many differences between the treatment now proposed and that which is soundly used in existing law, which has been time-tested, and on which the courts have repeatedly pronounced their verdicts. Yet this measure would bring disaster to many, many employees and employers in the Nation.

Mr. President, I cannot conclude my brief remarks without saying that, in my opinion, those who seek to bring local businesses which serve both their communities and the Nation under control and regimentation from Washington, do themselves a disservice, do the

Nation a disservice, and do the employers and the employees a disservice; and they also do a very great disservice to the Members of Congress, who already are overburdened and are unable to give the full measure of attention which they should give to matters of national defense, international relations, the balance of payments, and other matters which concern all of us so gravely and relate to the continuance and the prosperity of our great Nation.

Mr. President, I hope the Senate will not take this unfortunate and ill-advised step.

EXHIBIT 1

CHARLESTON CHAMBER OF COMMERCE,
Charleston, W. Va., April 12, 1961.
HON. JENNINGS RANDOLPH,
Member, U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR RANDOLPH: Although I have already written you on the subject of the proposed minimum wage legislation as it will affect our own retail establishments, it seems to me that you should have the benefit of a last minute check of 25 or more leading retail establishments here in Charleston showing the reduced employment that would occur in these establishments if the minimum wage law was made to apply to local retailing and the minimum raised from \$1 to \$1.25.

Last Friday we asked the chief executive officers of each of these establishments three questions:

1. Do you think inclusion of local retailers under Federal wage-hour coverage, even if it involves no increase in minimum wages at this time, is necessary or desirable?

2. If retailers are included, would it result in any reduction in your regular, full-time employment, with minimum raised to \$1.25 or even \$1.15 per hour?

3. If a minimum wage increase would cause a reduction in your full-time employment, approximately how many of your employees would be dropped to compensate for increased operation costs?

With practically no exceptions all of them answered “No” to No. 1. The single exception was the Sears, Roebuck store whose executive said this would have to be determined at the head offices of the company.

With the exceptions of Sears and Montgomery Ward, practically every one of these retailers said any increase above \$1 per hour would affect their cost of operation and result in reduced employment, or reduced hours for some present full-time employees, or both.

The third question answers reveal the specific number of jobs (possibly 185) that would be eliminated if the proposed increase in minimum wages was applied to these stores.

You see, Senator, even though the bill contains an exemption of firms doing less than \$1 million or more volume, every retail executive knows that next year, or the year after that, it is a simple matter to reduce the exemption to \$500,000, then \$250,000, and then to strike it out entirely.

Once the people of Federal supervision is applied to any phase of retailing it can be developed to apply to every phase. It has already been demonstrated that politically ambitious people are not hesitant to use this lure with which to influence votes.

It seems to me, Senator, that many of our legislators overlook the point that there is a substantial amount of part-time employment, as well as employment at full time, which can, under a pinch of increased operational costs, be eliminated.

The question is not whether \$40 a week is a living wage or even a decent wage.

Thousands of persons work at wage levels below this as a means of augmenting family income. They live at home and are not required to feed themselves and this augmented income which the family enjoys is the difference in many cases between having a car, radio, TV, and other luxuries.

Nobody contends that \$40 a week is a living wage. It takes a lot of careful living to feed and clothe oneself within that. But it is a tremendous helping wage when consolidated with that of other members of the family. It is this type of family consolidation of income that often means a car, a TV, and many other comforts that would not otherwise be possible. Here is where your proposed minimum wage law extended into the retail field will adversely affect thousands of persons here in West Virginia.

Another hidden gimmick of this minimum wage increase is its effect on other employee-cost levels. If the wages of one group of employees are increased, in time every echelon above that level expects the employer to maintain the same differential as formerly prevailed between the minimum compensation and his salary. All this adds substantially to operation costs.

Finally, Senator, even though the bill should exempt all retailers except those during \$1 million or more, take a look at the summary which is enclosed. Five stores, each of which we know do well over a million annually, would account for the elimination of 125 out of a possible total of 184 jobs that would be cut out. It is really in these large employing stores, Senator, that the greatest damage to employment would be done. One of these stores can eliminate as many jobs as 15 or 20 smaller establishments.

There is no strong public demand from any source that we know of for the raising of minimum wage from \$1.00 to \$1.25 or even to \$1.15 because it is not a question of cost-of-living standard, primarily, but rather one of family income. Nearly every store affected will either reduce employment, or reduce hours of employment for hourly wage people, or both. The average retail margin of profit at the present time will not absorb, in most instances, the increased operating costs which will be imposed by unnecessary and unjustifiable extension of Federal minimum wage jurisdiction into the field of local retailing where it has been carefully and specifically excluded by law for nearly 25 years.

Keep in mind, Senator, that this is a survey of but a few of the hundreds of retail establishments in Kanawha County, and of the thousands in West Virginia.

I sincerely hope you will find it possible in your considered appraisal of this legislation to oppose the inclusion of retailers.

Yours very truly,

ROBERT S. BAER,
Member of Board of Directors representing Retail "A" (Mercantile) Division,
Charleston Chamber of Commerce.

APRIL 17, 1961.

Mr. ROBERT S. BAER,
Retail "A" Division, Charleston Chamber of
Commerce, Charleston, W. Va.

DEAR MR. BAER: Your very thoughtful letter of April 12 raises a number of issues, and though we disagree on several points, I shall answer your questions as specifically and candidly as possible.

You will note that I have included excerpts of material from the CONGRESSIONAL RECORD which were part of the debate on the fair labor standards amendments, and though I do not wish to burden you with unnecessary reading, you will find the material relevant.

In answer to the assumptions of paragraphs 3 and 4 of page 2 of your letter, allow me to quote from remarks which I have prepared for the Senate debate on this topic:

"Finally, I refer to the fears expressed by some concerning the inherent danger of establishing a dollar volume as the criterion of interstate commerce. If the present Congress is free to establish \$1 million as the cutoff figure, what, it is argued, is to prevent a future Congress from lowering this figure to \$500,000 or even \$250,000? Or conversely, what is to prevent a future Congress of a more conservative cast from raising the figure to \$10 million?"

"In light of a fairly consistent and long-term movement toward a higher unit level of business activity and a rise in the cost of living, there is little likelihood that a future Congress will lower the cutoff figures proposed by this measure. Nor, in view of the political realities and the general history of such legislation, is there much probability of these figures being substantially raised."

I have deleted some from the remarks as they will be delivered, but the above statement is sufficient to indicate my views. I will add also that as part of the record of the debate, these remarks will indicate the legislative intent of the measure and will thus serve as a guide for its administration and future interpretation.

I would comment, merely in passing, with regard to the seeming contradiction between your assertion in the same paragraph (p. 2, par. 4) that "politically ambitious people are not hesitant to use this lure," and your assertion (p. 3, par. 3) that "there is no strong public demand from any source for the raising of minimum wage." If there is no strong public demand for it—and there is some truth to this statement—I fail to see how it can be advantageous for the "politically ambitious" to support it.

I do not believe your remark was intended personally, and I have not thus interpreted it. However, this one rather disparaging comment does less than justice to the moderate and dispassionate tone of your letter as a whole, and I suspect that it does not do justice to your own understanding of the issues involved.

Regarding the general position you expressed of the resultant effect on unemployment of enactment of the measure in question, I do not question the results of your poll of local retailers. However, I do question these figures as a basis for a flat prediction of what in fact will happen. And for this reason: without for a moment questioning the individual integrity of any of the persons responding to the questionnaire, it would seem highly plausible to assume that a person already opposed to the enactment of this law would quite naturally put a rather dark or gloomy interpretation upon its effect on his own enterprise. It is quite possible that those who find a cut in the work force as the most feasible means of economizing operations, within the present hypothetical view of the situation, might discover other means when confronted with the actual administration of such a law.

Even if this did not prove to be the case in any given instance of those you have polled, this would seem to be the history of our experience with such legislation on a nationwide basis. That is, one cannot state with any measure of certainty, based on our previous experience, that the proposed measure would cause increased unemployment. (See the enclosed RECORD excerpt, exhibit 1, sec. (a), pars. (ii) and (iv)).

Regarding your reference (p. 2, pars. 6 and 7 of your letter) to \$40 a week as a "helping wage," I do not question that there are many who work at this level or below who are merely augmenting a family income and are not dependent solely on \$40 a week or less for their livelihood. But I would respectfully remind you that those who are engaged in such work as supplementary to the principal source of family income are also competing in the same labor market

against many thousands for whom such a wage is the only source of income. If they can be hired at this price, it depresses the wage level for all employed in such work, including those for whom it is the entire livelihood.

On page 3, paragraph 1, you refer to the "hidden gimmick" of the proposed measure in "its effect on other employee-cost levels." I am familiar with the argument that an increase in the minimum wage will contribute to an "inflationary spiral" in the wage level. While this view has been stanchly advanced by many groups which have appeared before the Senate Labor and Public Welfare Committee, I have not yet seen the argument documented. Until it is, the position rests upon purely assumptive grounds.

Even if subsequent events do indeed justify this assumption, the argument must be weighed in balance against the benefits brought to some 4,300,000 workers and their families who now subsist, or attempt to, on a substandard wage. I cannot escape the knowledge that there are 21 States with no minimum wage law at all, only 16 with a law providing up to a \$1 minimum for some industries, and the remainder with laws which establish the minimum as low as 16 cents an hour.

Finally, I am quite puzzled by the distinction you raise (p. 3, par. 3), with the statement that "it is not a question of cost-of-living standard, primarily, but rather one of family income." I am not at all confident that I understand this meaning of this assertion, but I presume it refers to your previous comment concerning a "helping wage." If so, it is a distinction without a difference, since it is in large measure due to the cost of living that many families can no longer subsist on the income of a single wage earner, especially among those workers who are not protected by minimum wage laws. It seems to me that you are simply using different language to refer to the same problem.

I do not wish to seem unsympathetic to the very genuine problems of retail merchants. Nor do I deny that there may be some rather difficult adjustments to make in the area that you have indicated. But I have not lightly assumed my responsibilities in this matter. After many, many hours of thought and study, and after listening to hours of testimony before the Senate Labor and Public Welfare Committee I have come to the conclusion that the measure as reported by our committee represents the best compromise of the many conflicting claims and interests. And as such, I believe it represents the best interests of the people of West Virginia as well as the Nation.

I regret that we cannot agree on this matter, but I appreciate the temperate and thoughtful manner in which you have presented the position of the retail merchants.

With kind regards, I am,

Sincerely,

JENNINGS RANDOLPH.

CC: Hon. SPESSARD L. HOLLAND.

Mr. LAUSCHE. Mr. President, will the Senator from Florida yield for a question?

The PRESIDING OFFICER (Mr. Hickey in the chair). Does the Senator from Florida yield to the Senator from Ohio?

Mr. HOLLAND. I yield.

Mr. LAUSCHE. Earlier, the Senator from Michigan pointed out that in New York, Texas, California, Pennsylvania, and other States there are stores which operate solely within the States in which they are located; and he said that unless Federal legislation in this field is enacted, the minimum wages paid in those States will not be regulated. I

asked him whether it is within the power of the individual States to pass laws, based upon the judgment of their respective legislatures, that will fix the minimum wages to be paid by the businesses within those States. The answer was not responsive to my question; but, in effect, it was stated that the States have not acted, and that therefore the Federal Congress must act.

I should like to ask the Senator from Florida to comment on that general subject, if he will.

Mr. HOLLAND. My first comment is that the first State the Senator named—New York—has acted. It has a minimum-wage structure which applies in great measure to the workers in that State.

I am not familiar with what has been done in the other States mentioned.

The second factor is that 20-odd States have acted. The third factor is that I am perfectly willing to conclude that legislatures which have found no necessity for acting in their States know a great deal more about the problems of their people than we do here in Washington, whose shoulders are already overburdened with matters of national defense and the like. I am perfectly willing to leave it to the legislature in my own State, and the legislature in the State of Ohio, and legislatures in other States, because they are in touch with their people and know what their problems are.

I yield 4 minutes to the distinguished Senator from North Dakota [Mr. YOUNG].

Mr. YOUNG of North Dakota. Mr. President, I rise to support the amendment of the Senator from Florida.

Last year both the Senate and the House labored long hours trying to find language to amend the Fair Labor Standards Act that would bring retailers and the service trades under this act without doing grave damage to thousands of fine business organizations throughout the country. I need not relate here the long hours of debate, the substitutions and amendments that were made to both the House and Senate bills. In the final analysis, the conference committee could not agree, and the legislation died with the closing of the session.

The events of last year are now being repeated, which leads me to the conclusion that it is very difficult to amend an act that was designed to cover manufacturers operating in interstate commerce and make it apply to retailers who are not in interstate commerce. That is our problem, and we are not going to find any solution, in my opinion, unless we decide to inflict serious restrictions upon many fine small businessmen and saddle them with increased costs that they cannot bear.

We have one bill before us that would determine coverage on the basis of gross sales annually. In other words, the administration-backed bill, introduced by my distinguished colleague, the Senator from Michigan [Mr. McNAMARA], says that if a store does \$1 million in annual sales, it is *per se* in interstate commerce and should be brought under the control of the Fair Labor Standards Act. At the

same time, this bill says that if a store next door does business of \$999,999, it is not in interstate commerce and should not be covered.

This does not conform to the traditional interpretation of interstate commerce as meaning trading across State lines, which was the original basis of the Fair Labor Standards Act. If coverage under the act is based on sales volume, for example, a store in Bismarck, located in almost the center of my home State of North Dakota, could be considered as engaging in interstate commerce even though it did not trade across State lines. It seems to me that any test based upon sales volume is replete with all kinds of inequities that would do damage to thousands of American firms.

Another approach to this problem proposes that the test be based upon an enterprise having two or more establishments in two or more States. I think, here again, we would be creating havoc in hundreds of communities. There are many fine multiunit operations all over the country. Many have one or two stores in a neighboring State. Some of these stores are very small stores in small communities; yet they would be covered by this approach, while another store doing \$50 to \$100 million or more would not be covered simply because the operation was confined to one State. The effect of such an amendment would be to create all kinds of serious situations, some so serious that firms would be forced out of business.

For some reason, many people believe that purely local enterprises should be brought under Federal control despite the fact that those who drafted the original Fair Labor Standards Act in 1939 clearly stated that local retailing should not be covered by this act. It seems to me that this is a problem for local and State governments. Are we to say to the States that we in Washington are much better fitted to establish the wages local employees in a retail store should be paid and how many hours they should work, regardless of the size of the community or the type of work involved? The economic conditions throughout the country are not uniform.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLAND. I yield 1 additional minute to the Senator from North Dakota.

Mr. YOUNG of North Dakota. Mr. President, I think we should ponder these questions very seriously. To me, we are in danger of doing harm to American business firms who hire thousands of people. To pass this legislation would mean a loss in jobs. Prices would have to be raised to cover increased labor costs. I think the employees of such business institutions in my State are, for the most part, satisfied with their present working conditions. I support the amendment offered by the Senator from Florida [Mr. HOLLAND], which would leave the retail and service exemption intact.

Mr. MILLER. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. Mr. President, I yield to the Senator from North Caro-

lina [Mr. ERVIN] 10 minutes. Then I shall yield to the Senator from Kansas, and then to the Senator from Iowa.

Mr. ERVIN. Mr. President, I think that the most accurate definition of the purpose of the Constitution of the United States ever given was that which appears in the great case of *Texas against White*, wherein Chief Justice Chase said:

The Constitution in all of its provisions looks to an indestructible Union composed of indestructible States.

I revere that concept of the Constitution. For that reason, I favor the Federal Government's regulating the matters which are committed to the Federal Government by the Constitution, and the State governments regulating the matters which are committed to the States by the Constitution.

I think it is essential for us to preserve both the Union and the States, not only because our Constitution expects us to do so, but for an additional reason. One of the greatest judges who ever sat upon the Supreme Court of the United States was Justice Brandeis; and Justice Learned Hand, in speaking of Justice Brandeis, said that Justice Brandeis on one occasion had made this great utterance:

The States are the only breakwater against the everpounding surf which threatens to submerge the individual and destroy the only society in which personality can exist.

I believe that to be true, and I believe that not only would the States be destroyed, but also that the development of human personality would be prevented if we should concentrate in Washington all of the powers of government.

Mr. President, under the Constitution of the United States, the Congress has the right to regulate interstate commerce. I believe that power should be exercised by the Federal Government, and therefore I have always favored the Fair Labor Standards Act of 1938, which imposes minimum wages and regulates the hours of labor in those industries employing persons engaged in interstate commerce or in the production of goods for interstate commerce.

For that reason, I have welcomed the opportunity to vote for an increase in the minimum wages of those already covered by the Fair Labor Standards Act, which is restricted to a field allotted to the Federal Government by the Constitution of the United States.

The pending bill proposes to go a vast distance beyond the commerce clause as it has heretofore been interpreted. It has been recognized in hundreds of opinions of the courts of this land that, where goods which have been shipped in interstate commerce have come to rest within a State, the power of the Federal Government to regulate the handling of those goods has ceased, and that the power to act belongs exclusively to the States.

It has also been recognized times without number that selling goods within the borders of a State is a local business which can be regulated only by the State legislature of the State in which the business is conducted.

The bill would go far beyond that. In my opinion, the bill is subject to grave concern as to its constitutionality on at least two different grounds.

First, Mr. President, the bill would make classifications which are without rhyme or reason with respect to businesses which are to come within the coverage of the law. The Constitution of the United States contains the fifth amendment, and the fifth amendment contains a due process clause which is binding upon the Federal Government. The Supreme Court of the United States has held, in scores of cases, that the due process clause of the fifth amendment prohibits the Congress from making any classification in regulations which is arbitrary in nature.

All the classifications in the bill, so far as additional coverage is concerned, are arbitrary and without legal rhyme or reason—and without, I also say, economic rhyme or reason.

Why should subsection (1) of the bill, as set out on page 14, provide the law will apply to retail or service establishments if their cash registers register gross annual sales of a million dollars only if they acquire in interstate shipments goods worth \$250,000, and they provide in the next subsection (2), that the law will apply to certain kinds of service establishments—namely, laundries—if they have an annual gross business of a million dollars regardless of whether they receive any goods shipped in interstate commerce?

That is a classification for coverage purpose which is without rhyme or reason.

Let us consider the next subsection—subsection (3). The bill would have the law apply to street, suburban, or interurban electric railways or local trolleys or motor bus carriers even if they did not take in a single penny of revenue during the course of the year. What is the rhyme and what is the reason for making that kind of classification as between transportation agencies on the one hand and retail or service establishments on the other?

Let us consider the fifth subsection. This seeks to apply the law to those who are engaged in the construction industry if their annual gross receipts total \$350,000. What is the rhyme or the reason for making these people subject to the law only if they gross \$350,000, whereas those who are engaged in the operation of the transportation, the facilities described in subsection (3), are to be covered regardless of whether they take in anything? And now how is that to be reconciled with the \$1 million annual gross sales requirement for retail or service establishments?

Then let us consider subsection 6. This would bring within the coverage of the law any gasoline service establishment if the annual gross volume of sales of such establishment are as much as \$250,000.

Mr. President, if the Congress can regulate business upon such arbitrary grounds as these, then the Congress would have equally as much power to put one kind of an income tax on a red-headed man, and another kind of an

income tax on a bald-headed man, and another kind of an income tax on a man who has pretty, light-colored hair like my good friend from Michigan. There would be as much rhyme and reason in distinctions of that character as there is in the distinctions made in the coverage provisions of the bill.

There is another serious constitutional question involved. I do not reflect on anybody when I say this, except perhaps on the legal draftsmen of the bill, I refer Senators to subsection (s) on page 14.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. HOLLAND. Mr. President, I yield to the Senator 2 additional minutes.

Mr. ERVIN. The subsection undertakes to define an enterprise engaged in commerce or in the production of goods for commerce, and says that even though the goods in question may have come to rest within the boundaries of the State and are handled within the boundaries of that State, the man who has an employee who handles the goods is subject to the law because he has engaged in interstate commerce, which is not true, or because he has engaged in the production of goods for interstate commerce, which is not true.

The question is, Can Congress, by indulging in a legislative prevarication, extend the coverage of the Constitution of the United States? That is a serious constitutional question.

Let me illustrate how far this would extend if it could be sustained. If one were to operate a shoeshine parlor and employed a shoeshine boy who handled a rag to hit up the shine on the shoe, which rag had been torn out of a bale which had been moved at some time in the past in interstate commerce, or who used polish which had been shipped in interstate commerce, then such an employer would come within the coverage of the law as soon as the Congress decided to eliminate the dollar limitations.

The dollar limitations do not confer upon the Congress any power to act under the interstate commerce clause. Congress must process the power to act independently under the interstate commerce clause, and can use dollar limitations when such power exists merely to exclude businesses which are so small as to have no real impact on interstate commerce, or to include businesses which are so large as to have a real impact upon it.

The PRESIDING OFFICER. The time of the Senator has again expired.

Mr. HOLLAND. Mr. President, I yield the Senator from North Carolina 2 additional minutes.

Mr. ERVIN. Mr. President, although some of our brethren say there is no question of constitutional law involved in respect to the bill, there are two serious questions of constitutional law involved.

First, can Congress establish such arbitrary classifications with regard to businesses to which the law is to extend as those set out in the bill?

Second, can Congress extend the coverage of the Constitution of the United

States by uttering in its legislation a legislative prevarication which is absolutely not true?

The Holland amendment clearly eliminates both of these questions, and makes the bill constitutionally sound. For this reason, I shall vote for it.

Mr. HOLLAND. Mr. President, I yield 8 minutes to the Senator from Kansas [Mr. SCHOEPPPEL].

Mr. SCHOEPPPEL. Mr. President, I rise to support the amendment of the distinguished Senator from Florida.

The basic issue involved in the fight against the proposed coverage of retailing by the Federal wage and hour law is whether we shall permit whether encroachment upon local and State affairs, by a centralized Government.

The recorded history of the act is clear, with respect to the initial philosophy behind its enactment in 1938. The legal basis for the act was and is that Congress has the right to prevent the transportation of goods in interstate commerce, when such goods are the product of so-called underpaid labor. The law was enacted to cover the "sweatshop" and the exploitation of human labor in time of high unemployment.

Senator Black, now Justice Black of the U.S. Supreme Court, who introduced the act in the Senate, made it abundantly clear that it was not the intent to provide legislation to fix minimum wages and maximum hours in all the varied peculiarly local business units of this country. He pointed out that it was the prevailing, if not the unanimous sentiment, of the Senate Labor and Public Welfare Committee at that time that—

Business of a purely local type which serves a particular community and which does not send their products into the streams of interstate commerce, can be better regulated by the laws of the community and of the State in which the business units operate.

The philosophy of this act could not have been more clearly stated as being based upon the interstate commerce clause and as being intentionally kept away from any application to business that operated within the State line.

The original act exempted "any employee engaged in any retail or service establishment the greater part of whose selling or servicing is in intrastate commerce."

Basically this was the language offered as an amendment to the original bill when it was debated in the House in 1938 by Representative CELLER, of New York. Notwithstanding the fact that the House had been assured by Mrs. Norton, then chairman of the House Labor Committee, that the law would not be applied to retail and service trades.

Representative CELLER insisted:

Dissolve all doubt, dispel all chances of misinterpretation, accept it (his amendment) and then retail drygoods, retail butchering, retail groceries, retail clothing stores, department stores will all be exempted.

The amendment was accepted.

The 1949 changes to the wage-hour law concerning exemptions were brought on by the hopeless confusion which existed at that time, as a result of court

rulings and administrative interpretations. Tens of thousands of establishments, which had been traditionally recognized as retail, were in doubt, as to whether the law applied to them.

In 1949, the act was amended and clarified to clearly grant the exemption originally intended.

Every legislative proposal to extend the coverage of the act has been based on the technique of segregating the large retailer, along with multistore companies, from the great body of retailing, placing the segment of the industry under the present exemption.

Comparisons are drawn of wages paid in manufacturing, with those paid by the retail and service trades, with little attention paid to the reasons for the differences. I would like to point out three sound reasons for this difference.

First, because of the nature of retailing and service operations, these industries are not susceptible to the same productivity potentialities as is the manufacturing field through investments in laborsaving machinery and equipment. The fixing of a legal minimum wage by Government without any objective relationship to productivity by the employees is economically unsound.

Second, a large proportion of the retail labor force is unskilled or low-skilled. It includes many young people, many women and many older people. Yes, even handicapped people who cannot find a place in our industrial enterprise.

Third, retailers in one section of the country do not compete with those in another. That is not true of manufacturers. They may be in competition with each other no matter where their respective factories are located. As a step toward equalizing industrial costs, a case can be made for a Federal minimum wage law which ignores varying living costs in different localities. But the same reasons do not exist for ignoring that basic factor in the case of retail labor costs. Hence, Congress in the past framed the retail exemptions accordingly.

A uniform Federal minimum wage fails to recognize basic differences between metropolitan areas and medium and small communities. Economic needs and living conditions differ.

The establishment of a retail minimum wage for a retailer who operates in New York and then apply the same minimum wage to employees operating stores in the Great Plains areas of Kansas in towns such as Kinsley, Baxter Springs or Pratt would be entirely unfair and unrealistic. The minimum wage might actually be too low in New York but at the same time result in closing retail establishments in small communities in any State.

Retailing, regardless of ownership or size, is strictly a local operation dependent upon local conditions, cost of living, varies from community to community, which in turn determines the cost to employ help.

Some stores sell high-priced merchandise; others feature a moderate-price line. The experience and skill and the potential productivity of employees in

these stores is different. If the retailer is in downtown Chicago, the stores are bigger and busier. Employees' productivity is higher and wage rates reflect this. If the retailer is in a courthouse town in rural Kansas, far away from the metropolitan areas, the wage structure is at a lower level.

Retailing needs people of varied abilities and skills. In variety stores, for example, sales of \$7 per employee-hour, is considered good performance by a salesgirl who sells such items as ribbon, thread, stationery, and so forth. To sell such items does not require any unusual skill, such as is necessary on the part of a salesgirl in a department store where high-price items of clothing are sold and where sales of \$7 per hour would mean bankruptcy for the store. Because of this marked difference, variety stores are able to use much more marginal help than could be used in a department store.

If the \$1 minimum becomes effective, it would mean first, that all covered workers in a community would first be paid \$1 and ultimately \$1.25. Retailers would have to increase the wages of any person receiving less regardless of what work the employees did, or how much the particular work contributed to the success of the enterprise. The covered employer in a community would be forced to raise the salary of each and every employee who made more than \$1 an hour by an amount equal to the same percentage of the amount paid to the lowest paid employee. Retailing is no different from other industries when it comes to maintaining wage differentials dependent on skill and knowledge.

Hence, if an employer by law is required to raise an employee from 75 cents to \$1, what happens to the employee who presently received \$1.25 per hour in the same store? The answer is obvious. A proportionate increase must result. And where will the added costs come from? Certainly not out of present profits, for if my information is correct, current net profits from merchandising operations in the general merchandising field amounts to 2.4 percent of net sales.

An extension of the minimum wage to retailing will result in two things: first, increase in prices by retailers to meet the additional operating costs, thus bringing about further inflation; or second, additional unemployment brought about by a reduction in sales help in order to hold selling costs.

Marginal workers would have to be replaced; housewives and students seeking part-time jobs may find this type of employment no longer available.

Many stores in retailing employ on a part-time and even on a full-time basis sales help whose ages range from 45 to 65, also in many instances too old to secure employment in industry. Many of these employees may not be considered as breadwinners but they need their jobs to supplement the family income. These people will have to go and many would be replaced by a younger group with more vitality and capacity for greater production. And what about

the handicapped worker? What will happen to him?

We in the Middle West believe in the free enterprise system, in business, where competition in a free economy is the final determining factor of prices, for our labors and the products we sell. In a free enterprise system such as ours we cannot legislate prosperity. It must be earned.

Many now marginal firms will be forced out of business if this legislation is put into effect. A person without a job—and we presently have many unemployed—will not be helped by an increase in minimum wage or an extension in coverage. What we need most are jobs and jobs cannot be legislated. In fact, this legislation extended to retail and service establishments will create further unemployment. Let us keep further Federal intervention away from the main streets of our towns and cities. If legislation is necessary to remedy local conditions, then let the States handle their own problems closer home where they are conversant with the details and the changing conditions.

Federal laws must apply uniformly to all States regardless of need or conditions. State laws are geared to each State's specific requirements.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield 7 minutes to the distinguished Senator from Iowa.

Mr. MILLER. I wish to speak in support of the amendment offered by the distinguished Senator from Florida [Mr. HOLLAND], and I should like to expound a little more in detail on one of the points he made in his opening remarks covering a very technical and complex feature of the bill.

I refer to the fact that the bill now before us requires that each newly covered employee in retail and service industries be compensated for his employment in excess of the hours stated in the proposed bill at a rate not less than 1½ times the regular rate at which he is employed.

Many retail and service establishments are opened for long hours of every business day. The proposed bill establishes a workweek for retail and service employees of 44 hours during the 2d year from the effective date of its enactment, 42 hours during the 3d year, and 40 hours after the expiration of the 3d year. Every retail and service employee working longer than these stipulated hours in a workweek, and who is covered by the proposed legislation, must legally receive, under the terms of the bill, not less than 1½ times the regular rate at which he is employed.

The present law defines "regular rate" to include "all remuneration for employment paid to, or on behalf of the employee," except for payments of seven kinds specifically enumerated in the present act. The proposed bill does not make any basic change in this definition of "regular rate."

A serious problem arises over the question of what payments are included in the "regular rate" on which retail and service employers must calculate overtime compensation for each employee.

I call to the attention of Senators that under the act regular rate includes much more than the basic hourly wage, salary or compensation of each employee. When, and under what conditions, must so-called fringe benefits, extra compensation, and contributions paid by the employer on behalf of his employees be included in "regular rate?"

We are dealing here with very technical provisions of the present act. Whether or not these provisions have created major problems up until now, they most certainly will cause serious difficulties if retail and service employers become covered by the act as the main bill proposes. Complying with the overtime requirements of this law will be a complex problem for many retail and service businesses which will be blanketed under the act by the proposed bill.

Most of these businesses do not have legal departments, nor do they regularly employ the administrative staff which will be required for their understanding and complying with the overtime provisions. Numerous technical, legal, and administrative requirements govern when an employer shall add fringe benefits, extra compensation, and contributions to regular rate on which overtime must be calculated.

When do such fringe payments as prizes, gifts, awards, bonuses, and payments covering pension, profit sharing, thrift, and savings plans, as well as payments covering old age, retirement, life, accident or health insurance have to be added to the regular wage, salary or compensation of an employee to determine his overtime compensation? Sometimes under the law such payments are excluded from the regular rate. Sometimes such payments are included in the regular rate.

If anyone doubts the complexities to which this kind of legislation can lead, I invite his attention to the income tax regulations, specifically section 1.402(b) under retirement plans. This shows how complicated and almost impossible of enforcement this type of legislation can be.

Many employers in retail and service businesses pay bonuses to their employees. These bonuses are only excluded from regular rate when they are what is termed discretionary.

Section 7(d)(3) of the Fair Labor Standards Act provides that the regular rate shall not be deemed to include:

(3) sums paid in recognition of services performed during a given period if either, (a) both the fact that payment is to be made and the amount of the payments are determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement, or promise causing the employee to expect such payments regularly; or (b) the payments are made pursuant to a bona fide profit-sharing plan or trust or bona fide thrift or savings plan, meeting the requirements of the Administrator set forth in appropriate regulations which he shall issue, having due regard among other relevant factors, to the extent to which the amounts paid to the employee are determined without

regard to hours of work, production, or efficiency.

Consider the practical application of this complex rule to the thousands of enterprises proposed to be covered by the proposed bill. How is a retailer to know when it will be considered that he has retained sole discretion with respect to a bonus payment and also with respect to the amount of that payment? Every word, deed or act of the employer during an employment interview would have to be considered. If he told a prospective employee almost anything concerning bonuses it could be construed that he had said something causing the employee to expect them.

This would mean that such payment would have to be added to the "regular rate" on which overtime must be calculated.

Other very complex problems arise when payments in the nature of gifts made at Christmas time, or on other special occasions, or as reward for service, are excluded from regular rate. Similarly contributions made by an employer pursuant to a plan for providing old age, retirement, life, accident or health insurance or similar benefits for employees. Sometimes payments made pursuant to a profit-sharing plan, or thrift or savings plan do not meet the requirements of the Administrator and therefore are included in the regular rate.

Mr. President, under the pending bill, thousands of retail and service businesses would be subjected to the costly and extremely difficult burden of complying with complex overtime requirements. If the bill is enacted in its present form, it is inevitable that many of these businesses will find themselves in technical violation of the overtime provisions of the law, with all of the expense, litigation, and increased governmental policing it will entail.

Any employer who violates the overtime provisions of the act is liable to the employee or employees affected for the amount of the unpaid overtime compensation, and an additional equal amount as liquidated damages. Action to collect such amount can be taken not only by the employee or employees concerned, but also by the Secretary of Labor.

It is true that the pending measure would give retail and service businesses 1 year after its enactment before any overtime provisions would apply. But I submit that these provisions, as stated in the present act, and as interpreted by the Administrator, are impracticable to comply with if the act is extended to retail and service businesses.

The proponents of the proposed legislation have asserted that its primary purpose is to prevent substandard wages. A careful study of the bill will show that this is not its only purpose. Another purpose is to force upon businesses heretofore exempt from the provisions of the Fair Labor Standards Act, rigid, complex, and burdensome Federal control over wages and hours. Its effect will, moreover, be to discourage rather than encourage business growth.

In conclusion I would say that, granted the prevention of substandard wages is a laudable objective, there is the old saying that the end does not justify the means. The end objective of the bill, to prevent substandard wages, does not justify the emasculation of the Interstate Commerce Clause and the Constitution, which I have sworn in my oath of office to uphold.

Mr. HOLLAND. Mr. President, I congratulate the Senator from Iowa for bringing out a point which has been little discussed in the debate up to this time. I now yield 5 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the Holland amendment. The Holland amendment would wisely remove from coverage by the proposed bill retailers, launderers, and cleaners.

I am opposed to the provisions of the pending bill for several reasons. The first is that retailing is not interstate commerce. What authority is there for Congress to pass a law with regard to retailing? The only provision of the Constitution under which it is assumed that Congress has the authority is article I, section 8, clause 3, which reads as follows:

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

This clause does not provide that Congress shall have the power to regulate commerce within a State. It says "commerce among the several States." "Among the several States" means interstate commerce. That is what the Constitution provides in clause 3 of section 8 of article I.

Therefore, there is no constitutional basis for Congress to attempt to pass a law with regard to wages in retail sales as is now proposed in the Senate. Retail business is not commerce among the several States. It is a mistake to try to stretch the commerce clause in such a manner, for we are without constitutional authority to do so.

The second reason why I am opposed to the provision of the proposed law is illustrated by a letter which I have received from a constituent in Columbia, S.C., dated April 10, 1961. This is typical of many letters which I have received on the subject. It reads:

DEAR SENATOR THURMOND: Surveys in three major South Carolina cities show that if the \$1.25 plus time and one-half for overtime bill should pass, an average of better than 10 percent of retail employees will lose their jobs. (See attached sheet.)

I shall refer to the sheet in a few minutes.

An old man my firm will release is now earning a minimum income but will not be worth the new rate and has little chance of finding a job at \$1.25 per hour.

The several young men to be released are making their way now but their department cannot stand any increase in cost and most of this work will have to be discontinued.

It is quite apparent from past minimum wage laws that fewer people will be working to support more people on relief. Instead of helping labor, it only adds to the laborer's

tax burden. Many small firms will be badly hurt or forced to close.

Should the man with lesser skill be told you cannot work unless you can earn \$1.25 per hour?

Yours very truly,

RICE MUSIC HOUSE,
EMERT S. RICE.

That letter came from the operator of a retail store in the capital city of my State. That is what he thinks about the proposed legislation. I have received letter after letter along the same line from the proprietors of small businesses.

Is it the intention of Congress to close little stores and turn all the business over to the big chain stores? Is it the intention of Congress to grant a monopoly to a few big businesses in the Nation? The further we proceed along this line, the closer we shall come to doing exactly that. If a man owns a house which is vacant, will he raise the rent? Considering all the unemployment we hear about, is it planned to put more persons out of jobs? A great effort is being made now, it is said, to provide more employment. Why seek to provide more employment, on the one hand, and, on the other, plan to put more people out of work?

In my hometown of Aiken, S.C., there is a small drugstore which employs 20 persons. The owner of that store told me that many of his employees are high school boys and girls, and in the summer, college boys and girls. Also, some of his other employees are persons who are too old to work at most other jobs. I have seen them in the store. Some of them are disabled persons. The proprietor told me that if this bill be enacted, he will have to release all but eight employees and operate on a self-service basis. Any action so drastic as to cause a small drugstore in my hometown to release 12 out of 20 employees is, it appears to me, unreasonable.

According to the table which Mr. Rice attached to his letter, a survey was made in Columbia, S.C., among 27 employers, selected at random. Those 27 employers employ 2,189 persons. It is estimated that if the bill passes, the 27 employers will lay off 296 to 322 employees.

A similar survey was made in Greenville, S.C., among 25 employers employing 1,796 persons. It is estimated that if the bill passes, from 175 to 247 employees in Greenville will be laid off.

In Spartanburg, S.C., 19 employers were contacted at random. They employ from 843 to 848 employees, a few of them part time. It is estimated that if the bill passes, 168 full-time employees and 13 part-time employees will be laid off.

The statistics from those few cities and those few employees, I think, give a fair idea of the impact the bill will have on retail employment and the jobs of the clerks who work in the retail stores in South Carolina, and the same consequences will prevail across the country. It seems to me that it is very unwise to allow this retail coverage to remain in the bill. I sincerely hope the Holland amendment will be agreed to.

Mr. HOLLAND. Mr. President, I yield 5 minutes to the distinguished Senator from Colorado.

Mr. ALLOTT. Mr. President, I support the amendment of the distinguished Senator from Florida because it will accomplish what I favor, and I think it will stop the distortion of the Constitution.

So many persons have pointed out the inconsistencies in the bill and I wish to point out an additional inconsistency, one of the most ridiculous things that has even been attempted. On page 30, in the first proviso of paragraph (3), line 4, we read:

Provided, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, commercial, or communications business.

It is unlikely that the courts will ever interpret the language in this way, nevertheless it can be construed in this fashion. Suppose a person engaged in a mining, manufacturing, transportation, commercial, or communications business, sends his personal apparel to a laundry. It then becomes the laundry operator's responsibility to determine whether or not the customer is engaged in any of those businesses. This for the reason that the test as specified by the language of the bill relates to the business in which the customer is engaged. It does not provide that the business be commercial, rather, the customer.

So under a strict interpretation of the language, if a person sends his personal apparel to a laundry, and if he is engaged in any of the businesses I have enumerated, this would have to be considered as a part of the 25 percent "commercial" provision allowed the laundries.

I point out the basic flaw in this kind of proposed legislation. Originally the Fair Labor Standards Act of 1938, as amended, provided, in paragraph 6(a):

Every employer shall pay to each of his employees who is engaged in commerce or in the production of goods for commerce at the following rates.

It then becomes necessary to determine what "production" means. So we refer to paragraph 3(j) of the same act. It provides:

"Produced" means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this Act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.

That is the standard which has been accepted in this area up to this time. Every Senator is acquainted with the bill which was introduced 2 or 3 years ago, which provided for the inclusion not only of businesses which affected interstate commerce, but also of businesses which competed with businesses which affected interstate commerce. So there is no question about the intentions of the proponents of this type of legislation. Their intentions are to broaden and twist the Constitution until the Federal Government actually sits in the lap of every businessman in the United States.

Compare the standards of the present act with the bill presently before us.

The Fair Labor Standards Act, as amended, provides that the work must be at least a closely related process or occupation directly essential to the production of the goods. The bill before us, provides, on page 14:

"Enterprise engaged in commerce or in the production of goods for Commerce" means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person.

Anyone who has touched the product at any point along the line, which has ever crossed a State line, immediately becomes subject to this new criterion or standard, this new bending or new warping of the Constitution. That's what is sought to be done now.

I say again, as I said earlier, that I cannot understand why anyone should desire that the Federal Government impose such standards upon the people. Under the standards set forth in the bill, there will be not one, but thousands of businesses situated across the street from one another, handling substantially the same kind of goods, and making the same, or substantially the same, net profits. Some of them will come under the provisions of the bill, while similar businesses across the street will be exempt. This will be inevitable, as a result of the warping and twisting sought to be done by the bill.

I seriously urge all Senators to support the amendment of the Senator from Florida.

Mr. MUNDT. Mr. President—

Mr. HOLLAND. I yield 4 minutes to the Senator from South Dakota.

Mr. DIRKSEN. Mr. President, I yield 4 additional minutes to the Senator from South Dakota.

Mr. MUNDT. Mr. President, I strongly support the Holland amendment, and I desire to congratulate the distinguished Senator from Florida on the very effective and very intelligent battle he is waging in behalf of the small business people of the country, the people living in our rural areas, and the consumers generally, who would have to pay the additional costs of the extensions proposed by this measure.

In this country there are thousands of small local retail and service firms with annual sales over \$1 million. I call attention to the fact that the Small Business Administration presently holds that department stores, variety stores, and grocery stores with sales that exceed \$1 million may still be classified as "small." It is clear, Mr. President, that no single test using annual sales can accurately serve the purpose of distinguishing large firms from small firms engaged in retail or service or merchandizing trades.

One of the most dangerous features of this bill is that it would submit small, local retail and service establishments to coverage under the act, or at best to years of uncertainty over whether they are covered by the act, because of their own programs of mutual self-help. As we know, independent retailers have joined together in groups, to assist each other in many and various aspects of their business. These include financ-

ing, purchasing, merchandising, promotion, and management.

They have been driven to that by the constant expansion and growth of big business and by the development of chainstore merchandising. They have developed this method of mutual self-help, to assist themselves in meeting modern competitive conditions.

Yet, Mr. President, the bill, as written, threatens to make the law applicable to many small independent retailers with less than a million dollars annual sales, by reason of the fact that they have joined together in self-help groups. This comes about because under the terms of the bill they could be held to have either a unified operation or one under common control, and therefore each of their establishments would be classified together as an "enterprise" with annual sales of \$1 million or more.

The bill could cover every establishment in such group or groups, by requiring them to aggregate the annual sales of all their members, rather than making the test of coverage depend upon the actual annual sales of each individual small retail establishment.

Consider the situation where a wholesale supplier and a group of retailers have concluded a financial arrangement whereby the wholesaler is supplying the funds to enable the retailers to get started in business. The wholesaler, because he is investing heavily in such businesses, has certain contractual arrangements with the retailers. The wholesaler may, as a matter of fact, in the initial stage own the physical assets of these stores, or he may have a controlling interest in them—for instance, in the counters or the refrigeration equipment or some other equipment. It is clear that such arrangements can, and as a matter of fact will, produce situations where either a unified operation or common control will result. If this bill passes, it will be contended that the retailers involved in such financial arrangements will not have control over them, with the result that their sales volume will be added together to produce the magic figure of \$1 million. This means that although they operate businesses having annual sales of less than \$1 million a year, they will be covered under the "enterprise" definition in the bill.

Not only could the provision be construed to combine the sales of separately owned businesses for profit; it might also be applied to separately owned businesses joined together in a trade association group. As all of us know, a trade association is an organization having a common business interest, the purposes of which are to promote that interest. Its activities are directed to the improvement of business conditions in one or more lines of businesses. Can we say, as a matter of positive judgment, that a group of businesses which have joined together in activities carried on by a trade association could not be held to be a single "enterprise" under the broad definition of that term used by this bill? I call attention to the fact that the bill provides—

"Enterprise" means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose.

Mr. President, literally thousands and thousands of businesses and business arrangements in this country could be interpreted in such a way as to bring small, independent and local establishments with less than \$1 million annual sales within the broad concept of a million-dollar "enterprise," as defined in this bill. Neither the committee nor this body can possibly anticipate all such situations.

Neither can any administrator do so or categorically declare which concerns are covered by the bill and which concerns are not covered by it.

It is true that the bill has a proviso clause which states:

Provided, That, within the meaning of this subsection, a local retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not necessarily limited to, an agreement, (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such local establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

The interpretation of this provision raises a host of questions. When is a local retail or service establishment under independent ownership? I submit that the majority report fails to answer this question and many more raised by this ambiguous proviso.

We know from past experience, Mr. President, that the courts, the Secretary of Labor, and the Administrator will extend the provisions of any bill we pass on this subject; they will do so as broadly in favor of coverage as possible. We know that every exemption will be construed as narrowly as possible.

One needs only read the three cases decided yesterday by the U.S. Supreme Court, in the general field of labor relationships, to recognize generally what the courts will do, from the standpoint of the elasticity of such a provision. They will stretch and expand it in the direction of including and covering more and more elements of labor; they will do that as much as they possibly can. It is for this reason that I place little reliance on what might appear to be an exception to the definition of "enterprise," as contained in the proviso clause to which I have referred.

Mr. President, I have cited only some of the more obvious situations that come to mind. These can be multiplied many times over. Each of us can speculate on what might happen under a given set of circumstances with which we are personally familiar, or about which we have heard. But the courts will have the last word; and no one can accurately specu-

late in regard to any safeguards the Supreme Court will support when the time for adjudication comes. Meanwhile, thousands of small retail and service establishments will suffer the consequences of our passing a bill with vague and confused language.

Very few retailers have the means to engage legal experts conversant with the hundreds of Federal and State laws and regulations applicable to their business operations. As a matter of fact, in the rural areas there are very few attorneys who are thoroughly familiar with the Fair Labor Standards Act and the thousands of administrative rulings and decisions interpreting the application of this act.

Mr. President, I now approach a problem which should concern all of us, whether we are concerned about the extension of the interstate commerce clause or not. This, to me, is one of the most serious and basic questions which should be of major concern.

Under the present law, the Administrator has the authority to examine the books of a local company to determine whether: first, he is subject to coverage; and second, if he is subject to coverage, whether he is complying with the provisions of the Fair Labor Standards Act. In the field of retailing this means testing the question of whether:

First. It is a retail establishment, recognized as such in the industry.

Second. Whether 75 percent of the sales are retail and so recognized.

Third. Whether 50 percent of the sales are within the State in which the establishment is located.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLAND. I yield 2 additional minutes to the Senator from South Dakota.

Mr. MUNDT. Mr. President, have I exhausted the 4 additional minutes granted me by the minority leader? I think I have only exhausted the time first granted me by the Senator from Florida.

Mr. MANSFIELD. Mr. President, I will grant the Senator from South Dakota 4 minutes on the bill.

Mr. MUNDT. I thank the Senator.

If the investigator reaches the conclusion that the establishment is not retail under the foregoing test, he then examines the books of the company to determine whether all of the employees have been paid the minimum rate and time and one-half for all hours over 40. For all practical purposes, the investigator's authority should stop at this point. I believe I am correct in saying that he could be enjoined from investigating any further. Now, Mr. President, under the proposed law, the investigator not only would have all the authority mentioned above, but he would be authorized to go far beyond and investigate into the very depths the retailer's operation. He would have authority equal to that of the Internal Revenue investigator; he would have authority equal to that of the OPA, OPS, and WPB investigator; he would have authority equal to that of the alien prop-

erty investigator during World War II. As a matter of fact, Mr. President, is there any end to his investigative authority? How, Mr. President, would an investigator be able to determine whether a particular retailer was a part of an enterprise unless he delved into the most detailed and personal life of the owner of a retail establishment, unless he were able to see every transaction, every contract, every bank account, every formal or informal arrangement, every family connection, and every mortgage?

Of course, the investigator, in order to carry out such duties, would have to have wide range of investigative authority. Once having made the investigation and having convinced himself, subject to the frailty of judgment that any human being would have, having determined in fact that a certain individual must come under the coverage of the act, then the poor local individual retailer has only a Hobson's choice. Either he must go to the great expense of trying to find knowledgeable counsel who can guide him in representation before the Government, and, if necessary, in the courts, or he must surrender to the decision of the investigator and subject himself to all the provisions of the proposed act with all of the extra costs involved.

By forcing coverage upon small businesses and rural establishments not economically able to meet these extra costs, by forcing upon such individuals the increased cost of doing business, we are definitely not helping the employees of that establishment. When we simply provide in the law that we guarantee an individual a certain wage which he is not receiving, without at the same time assuring him that he can continue in his job, we do not increase his income; we simply increase his disappointment, because he is more disappointed at losing his job and being unemployed in a position where he might have received \$1.25 an hour than in keeping a job which paid him only \$1 an hour.

It seems to me that people have a right to work and the right to earn a living and the opportunity to hold a job at their own levels of capability and productivity. If by too reckless an action or too fast an action here we make it impossible for enterprises to continue to keep their present employees engaged and thus force people out of work, and do it without in any way benefitting anyone whatsoever, we in fact, injure a great many people. We also increase the cost of living to every family's budget and the expenses of every family which buys groceries, clothing and other products, because somewhere these extra costs must be passed on to the ultimate consumer, or we are going to bankrupt the enterprises involved.

If we take the bill without the Holland amendment, we also automatically stimulate the fires of inflation, because we force up the costs to the individual family and individual enterprises, and cheapen the dollar.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DIRKSEN. Mr. President, I yield 1 additional minute to the Senator from South Dakota.

Mr. MUNDT. As a matter of fact, we impose upon every American who is a purchaser, and that includes us all, a new national sales tax, defined as inflation. Inflation operates as a sales tax, because it imposes a tax on every person in America by foisting this extra cost on the consumer, which in effect deprives every person of a part of his income just as surely as would be done by a national sales tax.

I think prudence and good judgment dictate we should accept the Holland amendment as the minimum precaution in trying to make this proposal acceptable to our times, as it affects many business concerns, in small cities and towns as well as small concerns, in big cities throughout the country, and throughout rural America especially.

Mr. HUMPHREY. Mr. President, I yield 1 minute to the Senator from Michigan [Mr. McNAMARA].

Mr. McNAMARA. Mr. President, we have just voted on two amendments. One would have extended coverage to 1.4 million workers. One would have extended coverage to no new workers.

The pending amendment of the senior Senator from Florida would extend coverage to approximately 273,000 new workers. The previous two amendments we have voted upon maintain escalation provisions similar to the committee bill for presently covered workers. This point seems not to be in dispute.

The pending Holland amendment establishes the same escalation for the newly covered as the committee bill.

I am pleased that this Senate apparently shares the committee's view that all workers should be brought under coverage, at eventually the same wage rates.

However, I hope that the Senate will not accept this amendment, which extends coverage to so very few—a total of 273,000 new workers.

I see no logic in a measure which would extend new coverage to those working in transportation, seafood, small telephone companies, and those working in shipping, while leaving the 2.5 million workers in the retail field without coverage. Furthermore, this amendment would provide an actual wage increase to only 20,000 workers who are now paid less than \$1 an hour, and, eventually, only 50,000 who are paid less than \$1.25.

This compares to the committee bill which would provide an eventual \$1.25 an hour for 4.1 million new workers, and an actual wage increase for 1.5 million workers.

Mr. HUMPHREY. Mr. President, I wish to speak only 2 minutes. I want the record to be quite clear that every small retailer is exempt. If a retailer does less than \$1 million business, he is exempt. The bill as reported from the committee provides that 3.7 percent of the businesses are to be covered in retailing establishments, which provide 34 percent of the employment.

The average retail establishment that we find in the State of Minnesota, or

the State of South Dakota, or the State of North Dakota, or the State of Kansas, is exempt. One can count on the fingers of one hand the number of businesses or retail establishments in the State of Wyoming, or the State of Minnesota, or the State of South Dakota, that do \$1 million or more in business. All doing business under that amount are exempt.

What we are really talking about is a limited number of employers who do a large amount of business affecting interstate commerce, who employ one or more retail stores.

The "papa and mama" stores, the ones about which we hear the emotional speeches, are to be exempted, because they do less than a million dollars' worth of business a year.

Mr. MANSFIELD. Mr. President, I yield back the remainder of the time on this side, and I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HOLLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time on the amendment has been yielded back. The question is on agreeing to the amendment offered by the Senator from Florida [Mr. HOLLAND]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Louisiana [Mr. ELLENDER] is absent on official business.

I also announce that the Senator from Virginia [Mr. ROBERTSON] is absent because of illness.

I further announce that, if present and voting the Senator from Virginia [Mr. ROBERTSON] and the Senator from Louisiana [Mr. ELLENDER] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Wisconsin [Mr. WILEY] is absent because of the death of his brother.

The result was announced—yeas 35, nays 62, as follows:

[No. 30]

YEAS—35

Allott	Dirksen	Miller
Beall	Dworshak	Morton
Bennett	Eastland	Mundt
Blakley	Ervin	Russell
Bridges	Fulbright	Schoepfel
Butler	Goldwater	Smathers
Byrd, Va.	Hickenlooper	Stennis
Capehart	Holland	Talmadge
Carlson	Hruska	Thurmond
Case, S. Dak.	Jordan	Williams, Del.
Cotton	Kerr	Young, N. Dak.
Curtis	McClellan	

NAYS—62

Alken	Byrd, W. Va.	Cooper
Anderson	Cannon	Dodd
Bartlett	Carroll	Douglas
Bible	Case, N.J.	Engle
Boggs	Chavez	Fong
Burdick	Church	Gore
Bush	Clark	Gruening

Hart	Long, Hawaii	Pell
Hartke	Long, La.	Prouty
Hayden	Magnuson	Proxmire
Hickey	Mansfield	Randolph
Hill	McCarthy	Saltonstall
Humphrey	McGee	Scott
Jackson	McNamara	Smith, Mass.
Javits	Metcalf	Smith, Maine
Johnston	Monroney	Sparkman
Keating	Morse	Symington
Kefauver	Moss	Williams, N.J.
Kuchel	Muskie	Yarborough
Lausche	Neuberger	Young, Ohio
Long, Mo.	Pastore	

NOT VOTING—3

Ellender	Robertson	Wiley
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So the Holland amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. McNAMARA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ELLENDER subsequently said: Mr. President, will the Senator from Montana yield briefly to me?

Mr. MANSFIELD. I yield 2 minutes to the Senator from Louisiana.

Mr. ELLENDER. Mr. President, a while ago the Senate voted on the so-called Holland amendment. At that time I was busily engaged in a hearing before the Armed Services Subcommittee of the Appropriations Committee. I was told that the bell which indicated the taking of the vote rang, but I did not hear it. If I had been in the Chamber at that time and had voted, I would have voted in favor of the Holland amendment.

Mr. MANSFIELD. Mr. President, will the Senator from Louisiana yield?

Mr. ELLENDER. I yield.

Mr. MANSFIELD. I received word from the Senator's committee that that is what happened. That explains why the Senator from Louisiana was not present at that time.

Mr. ELLENDER. I thank the Senator from Montana.

Mr. PROUTY. Mr. President—

Mr. MONRONEY. Mr. President—

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. PROUTY. Mr. President, I send to the desk an amendment which I offer on behalf of myself and the distinguished Senator from Connecticut [Mr. BUSH].

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. At the end of the committee amendment it is proposed to add the following new section:

POSTPONEMENT OF MINIMUM WAGE RATE INCREASES ADVERSELY AFFECTING THE ECONOMY

SEC. 14. (a) Not less than thirty and not more than sixty days prior to the effective date of each increase in minimum wage rates made by this Act (other than any such increase which takes effect on the effective date prescribed by section 13 of this Act), the Secretary of Labor shall transmit to the Congress a report stating:

(1) Whether or not any such increase is likely to result in a substantial increase in the cost of living as reflected in the indexes of consumer or wholesale prices, or otherwise, and

(2) Whether or not such increase is likely to result in substantial unemployment in one or more of the industries affected by

any minimum wage rate increase made by this Act.

(b) Notwithstanding any other provision of this Act; if the report required by this section indicates that, in the opinion of the Secretary,

(1) Any such increase in minimum wage rates is likely to result in a substantial increase in the cost of living as reflected in the indexes of consumer or wholesale prices, or otherwise, or

(2) Is likely to result in substantial unemployment in one or more of the industries affected by any minimum wage rate increase made by this Act, the Secretary may suspend the effective date of any such increase in one or more industries, or major segment of any such industry or industries, for such period of time as he shall deem advisable but any such suspension shall end not later than the expiration of 60 days of continuous session of Congress thereafter.

In any case in which the effective date of an increase in minimum wage rates is suspended under this section, the rates in effect immediately prior to the suspension shall continue in effect during the period of such suspension.

(c) For the purpose of this section, continuity of session shall be considered as broken only by an adjournment of the Congress sine die, but in the computation of the sixty-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

(d) The Secretary shall after due notice hear such witnesses and receive such evidence as may be necessary or appropriate to enable him to perform his duties and functions under this section. Due notice of any hearing provided for in this section shall be given by publication in the Federal Register and by such other means as the Secretary deems reasonably calculated to give general notice to interested persons.

Mr. PROUTY. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PROUTY. Mr. President, the declared policy of the Fair Labor Standards Act is to eliminate as rapidly as practicable, without substantially curtailing employment, substandard labor conditions in industries engaged in commerce or in the production of goods for commerce.

The policy of trying to raise wages without curtailing employment was sound when it was approved over 20 years ago, and it is sound now.

In 1955 when the minimum wage was increased from 75 cents to \$1 with no extension of coverage, 2.1 million workers were then paid less than \$1 an hour and received wage increases.

In contrast, the bill now under consideration would both extend coverage and increase the minimum wage.

In acting on a bill which would bring millions of new workers under the Fair Labor Standards Act, we must take every precaution to make certain that no real hardships fall upon either employers or workers.

It is obvious that Congress should now set the minimum rate for the newly covered at a level which is at present economically feasible and put in the bill provisions which will allow the Secretary of Labor to defer the effective date of step-up increases if they would substantially curtail employment or significantly increase prices.

During the 84th Congress, a staff study was made of the problem of providing for periodic increases in the minimum wage. That staff study urged as follows:

That serious attention be given to various possible methods allowing more frequent but smaller adjustments in the statutory minimum wage and that the Secretary of Labor be directed to make specific recommendations to Congress in regard to future necessary increases.

In other words, the staff report was saying in essence that the Secretary of Labor is in a position to determine whether economic conditions warrant changes in the minimum wage.

We all must realize that we are participating in a somewhat hazardous undertaking when we put escalator provisions in a Federal law because these escalator provisions become effective at a predetermined time, and through their adoption we would be attempting to foresee future economic conditions, future changes in wage levels, in the cost of living, and in the ability of employers to adjust to high minimum wages in the years ahead.

During the course of the Senate hearings, the distinguished senior Senator from Illinois acknowledged the importance of the relationship between minimum wages and employment when he said:

I, too, would be concerned about the possible adverse effects of increasing the minimum wage at this time if the proposed rates would have an impact as great, for example, as the increase in the minimum from 75 cents to \$1 an hour had in 1956.

It was the Senator's opinion that the impact of the bill before us will not be as great as the impact of the 1955 bill. This is an arguable point, but I shall not go into it at this time.

I will say, however, that no single industry affected by the 1955 increase felt an impact greater than that which will be felt by the retail trade we are covering under the committee bill. Let me explain why this is the case.

According to figures submitted to the Congress by the Department of Labor 54 percent of retail employees in rural areas are now earning less than \$1 an hour. The bill would raise these employees gradually to \$1.25 and the wage cost applicable to these employees will increase not less than 25 percent. Forty-four percent of employees in food stores are now making less than \$1 an hour. They will be raised to \$1.25 per hour by the committee bill. This means that a substantial number of workers in grocery stores will have wage increases running between 25 to 50 percent of their current earnings.

I feel that we ought not to go into the business of judging what economic conditions will be 3 or 4 years from now without having some check which will enable the Secretary of Labor to prevent the development of serious economic consequences.

I think the amendment which I am offering will prevent injury of this nature from coming about.

The bill schedules step-up increases in minimum wage rates over a 4-year pe-

riod. Supporters of the bill conceded in the hearings that the economic impact of these increases could only be estimated.

It is not possible to predict exactly what effect the minimum wage increases may have on industries to be newly covered or on general economic conditions. Small business, low wage industries and newly covered industries may suffer serious economic consequences. The economic condition of the country may be greatly different than it is now when the last increase goes into effect in 1964.

The amendment requires that the Secretary of Labor report to the Congress his opinion whether any scheduled minimum wage increase will substantially increase the cost of living or result in substantial unemployment in any industry affected. If such a result is not likely, the minimum wage increase goes into effect.

If an increased cost of living or substantial unemployment in an affected industry is likely, the Secretary may suspend the scheduled increase for such period of time as he thinks necessary or until the Congress shall have been in session 60 days. This will give the Congress an opportunity to decide whether to continue the suspension for a longer period. If the Congress does not act, the wage increase would go into effect. The Secretary may revoke the suspension at his discretion.

The amendment requires a report on the economic effect of the scheduled minimum wage increases.

It eliminates guesswork now about conditions 4 years ahead.

It provides an opportunity to take action to counteract any adverse economic effect of the minimum wage increases.

Mr. President, I cannot emphasize too strongly the fact that although the Fair Labor Standards Act has been on the statute books for over 20 years Congress has never, during this period, extended coverage. During the Senate hearings Secretary Goldberg brought this sharply to focus when he said:

Congress during the period since the minimum wage law was enacted has removed people from coverage rather than contributing to the coverage.

Right now, we have relatively fewer covered by the minimum wage law than was covered when Congress enacted the law originally.

So, therefore, we are undertaking something new this session—something which has not been done for over 20 years. It would serve us well to take note of how the original law worked as it applied to industries covered for the first time. It would serve us well to observe those precautions which our predecessors took to make certain that the extension of coverage and rate increases they approved would have no adverse effect on employment.

Mr. CASE of South Dakota. Mr. President, will the Senator yield?

Mr. PROUTY. I am glad to yield to the Senator from South Dakota.

Mr. CASE of South Dakota. Mr. President, the Senator from Vermont is one of the diligent lawmakers in the

Senate. He always applies himself constructively to any legislative problem that comes before the committee of which he is a member. I am impressed by what he is saying. It seems to me that he is constructively and sympathetically seeking to give to the people what would be a safeguard against what some people may consider to be a danger point. I commend him for his thoughtful approach, and I commend him for the amendment he has offered. To give the Secretary of Labor the discretionary power and the responsibility which his amendment suggests would add materially to the practicability and the workability of the measure.

Mr. PROUTY. I appreciate the comment of the distinguished Senator. Actually what we are engaged in is an exercise in prudence, in the form of insurance to take care of contingencies which may occur in the future and which we cannot anticipate at the present time.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PROUTY. I yield.

Mr. JAVITS. I should like to explore something with the Senator. I join the Senator from South Dakota in expressing my respect for the Senator from Vermont, with whom I sit on the committee which reported the bill. I can testify to his diligence. I am troubled by the amendment, and I should like to ask the Senator about several points.

First, it is a fact, is it not, and this is hornbook law, but of course it should be stated—that Congress could at any time repeal any part of the statute; it would not have to wait until the step-ups took place, but could withdraw the authority it had granted.

Mr. PROUTY. That is true, but I point out to the Senator from New York that these wage rate increases will go into effect at a time when Congress is not in session. Therefore, rather than wait, and perhaps cause serious unemployment and serious increases in the cost of living, I feel that the Secretary of Labor should have the opportunity to take action at the time, subject, eventually, to congressional approval or disapproval.

Mr. JAVITS. I am impressed with the desirability of reports. I had hoped that perhaps the amendment could be designed to require the Secretary of Labor to give us his views as to a substantial increase in the cost of living or a substantial increase in unemployment as an outcome of the step-ups. I am troubled, however, by giving a Cabinet officer authority to leave the American economy in doubt for a rather considerable period of time upon the definition of the word "substantial," which is the only word of art used with reference to his authority.

So I ask the Senator whether he might consider favorably, knowing the vicissitudes which an amendment such as this must encounter anyhow, a proposal to require a seasonable report by the Secretary of Labor on these two questions, so that Congress could, if it chose, act, but without giving the Secretary a kind of authority which leaves the whole

question up in the air in terms of planning and certainty, so far as the American economic system is concerned.

Mr. PROUTY. I think I am proceeding in much the same way in which the matter was handled when the law was first enacted in 1938. I believe the Secretary was then given the authority to suspend increases if, in his judgment, that seemed to be necessary.

I may say to the Senator from New York that my time is limited. I do not know how many other questions will be asked. I desire to complete my statement; then I shall be happy to yield again.

The original law provided for the establishment of minimum hourly wages and maximum work weeks for employees engaged in commerce or engaged in the production of goods for commerce. Definite minimums of 25 cents and 30 cents were fixed for the first and second years respectively, and after a period of 7 years a minimum of 40 cents per hour was established, except in an industry in regard to which it was demonstrated that a rate of 40 cents would substantially curtail employment.

That is what I was referring to in my answer to the distinguished senior Senator from New York [Mr. JAVITS].

Congress knew then, as it must know now, that when we attempt to foresee economic conditions 2, 3, or 4 years ahead, we are engaged in a hazardous business. The 75th Congress set minimum wage rates on an accelerated basis the same as we are doing in this 87th Congress, but they must have said to themselves. "Suppose we guessed wrong about future economic conditions. Let us give someone the authority to prevent rate increases from going into effect if it can be demonstrated that they will cause unemployment."

I do not think we can be any less careful today, and for this reason I have offered my amendment. When the time for wage rate increases rolls around, if the Secretary of Labor is convinced they will not adversely affect the economy by causing substantial increases in the cost of living or unemployment, the raises will become effective on schedule. If a problem arises with respect to one industry, the old rate will remain in effect for that industry so long as the Secretary thinks it advisable.

It should be made clear that my amendment will not affect the first rates set in the bill, of \$1.15 for presently covered workers and \$1 for newly covered workers. Nor does it have any effect whatsoever on the overtime provisions of the bill. It deals only with those minimum wage raises which are set for future years, because we can only guess what economic conditions will exist in those years. In no event may the Secretary suspend the effective date of any increase for any period of time which extends beyond 60 days continuous session of Congress.

Mr. President, I promised earlier to yield to the distinguished Senator from Connecticut. I am happy to do so now.

Mr. BUSH. Mr. President, will the Senator from Vermont yield 5 minutes to me?

Mr. PROUTY. I yield 5 minutes to the distinguished Senator from Connecticut.

Mr. BUSH. Mr. President, the minimum wage bill now before the Senate has been substantially improved over the bill proposed last year. Safeguards necessary for continuing employment opportunities in small businesses have been included.

I am satisfied that an increase in the minimum wage will be of benefit to the working men and women of Connecticut and other States. Of major importance is the protection it gives to jobs in Connecticut against low-wage competition from other States, primarily in the South. Too many factories have moved from our State to low-wage areas. The bill will help to prevent that kind of industry pirating.

Our workers and our employers who pay decent wages deserve this protection against competition based on substandard wage scales.

For these reasons, I shall vote to increase the minimum wage progressively to \$1.25 an hour, and to extend the benefits of the law to several million additional workers.

I am pleased to join with the able and distinguished Senator from Vermont in cosponsoring his amendment this afternoon. I believe the amendment is necessary because it comes to grips with two major arguments which are offered against the bill.

The first is the danger of the inflationary impact of the proposed set-up in wages in the years immediately ahead, in the next 2 or 3 or 4 years, in the case of one group of increases. The other is the fact that by these stepups unemployment may be caused, and that is something which we are seeking to prevent.

I claim that the Prouty-Bush amendment is a cautionary bit of insurance against any harmful effects, either inflationary or unemployment-wise. It is unusual for Congress—in fact, I do not recall that it has been done, certainly not since I became a Member of the Senate—to pass a bill which would require a step-up in minimum wages over a period of years in the future. The bill provides for a step-up, first, to \$1.15 in the first 2 years, and then to \$1.25 thereafter, for persons presently covered. But for persons newly brought under the minimum wage and overtime provisions of the act, the bill provides for a step-up, first, to \$1 in the first year after enactment, then to \$1.05 in the second year, to \$1.15 in the third year, and thereafter to \$1.25. This is to be accomplished over a period of 4 years.

It seems to me to be appropriate that the person who is to administer the act should have the authority to issue a stay order on the increases if he believes there is danger to the country either by fostering inflation through the requirement of the increase at that time, or there is danger of causing unemployment in any area at all. He should have the authority, therefore, to place a stay order in effect until Congress has had an opportunity to reconsider the question.

I do not agree with the Senator from New York [Mr. JAVITS] that such au-

thority should not be given to an executive officer or to a Cabinet officer. On the contrary, I go so far as to say it is quite appropriate that such an officer should have the authority. This is the field in which the executive branch of the Government functions. It is quite wise, I believe, that if the Secretary believes there may be danger, either by virtue of fostering unemployment or causing an increase in the cost of living, then he should have the right to effect a stay order and to ask Congress to reconsider the matter at the first opportunity.

I think Congress would be grateful for such an opportunity, if it thought the Secretary had found that it might be dangerous to proceed with the step-up in increases. So I urge the Senate to adopt the amendment. I believe it is a cautionary bit of insurance which will be helpful to the bill.

Mr. PROUTY. Mr. President, I reserve the remainder of my time.

Mr. MANSFIELD. Mr. President, I yield myself 3 minutes.

The Prouty-Bush amendment would cause the Secretary of Labor to make elaborate studies in all low-wage industries and report to Congress on the impact of increasing the minimum wage in each one of these industries.

The duty to make studies and reports would impose an unduly burdensome and costly duty upon the Secretary of Labor. Evidence presented to the Senate Labor Committee both during and after hearings held on this legislation shows that the impact of increased minimum wages would be slight even with respect to newly covered workers. In any event, Congress can always act in any year to revise or modify any minimum wage which threatens a serious, adverse effect upon any segment of our economy.

For purposes of carrying out the provisions of the Prouty-Bush amendment, the Secretary of Labor would appear to be required to survey each industry presently covered by the Fair Labor Standards Act and each industry which would be affected by the increased coverage of this act. The amendment would even require the Secretary to study and survey every major segment of every industry which would come within the act. Carrying out these procedures every year would impose intolerable administrative burdens, interfering with the orderly application and enforcement of the law.

Furthermore, the procedures and methods for suspending wage increases for any industry would apparently be subject to the Administrative Procedure Act, thereby requiring lengthy and elaborate hearings and other procedures taking very substantial periods of time, perhaps 6 months or more, with probable right of judicial review. These procedures would be required in a situation in which time is of the essence.

In my opinion, these procedures would defeat the very purposes of the amendment.

The amendment gives extraordinary power to the Secretary of Labor, and I, for one, do not wish to see any Cabinet officer given the power which is embodied in this amendment, as I interpret it.

Mr. PROUTY. Mr. President, I should like to call the attention of the distinguished majority leader to the fact that the hearing provisions of the amendment are the same as those presently in the wage and hour act. So there is no difference whatsoever in that respect.

It is possible that some administrative burden would have to be borne by the Secretary of Labor if our amendment is adopted. But certainly it would be better for him to suffer a few headaches, rather than to have people suffer from unemployment, because of action taken by the Congress.

I believe it highly important that we exercise prudence in this respect; and I believe that the amendment offered by the distinguished Senator from Connecticut and myself will lead to that result.

Mr. KEATING. Mr. President, will the Senator from Vermont yield to me?

The PRESIDING OFFICER (Mr. BURDICK in the chair). Does the Senator from Vermont yield to the Senator from New York?

Mr. PROUTY. I yield.

Mr. KEATING. I wish to commend the distinguished Senator from Vermont for this very thoughtful amendment and for the diligence he has devoted—as has also the Senator from Connecticut [Mr. BUSH]—to this problem.

It seems to me that the amendment would go a long ways toward removing the crystal ball from the minimum-wage bill. I believe this amendment is a sensible way in which to phase in the increases in the minimum wage in the years ahead.

Mr. President, I want to make it clear that it is my intention to vote for an increase in the minimum wage. I voted for one last year, and I intend to do so again. But I recognize that there is a certain amount of danger in planning some 4 years in advance as to the level of the Federal minimum wage, without at the same time providing some limited protective device, in order to be able to avoid having the minimum wage automatically increase in periods when such increases might be unwise.

The best economists agree that all of the projections on which the pending bill is based are of a tenuous nature. Economic forecasts are a little like weather forecasts. It is always good to know that the sun will shine, but it never does any harm to have an umbrella at hand. This amendment is in the nature of an economic umbrella. We hope for prosperity and we hope to be able justifiably to increase the minimum wage; but we also want to be sure that we have a mechanism by which temporarily to suspend a scheduled minimum wage increase if we encounter stormy economic conditions.

If our economy prospers—and all of us certainly hope it will—this amendment will have no adverse effects whatever on this measure. Under the provisions of the amendment, as I understand it, only a decisive and positive action by Congress would prevent the minimum from being increased as specified in this bill.

Mr. PROUTY. The Senator from New York is entirely correct.

Mr. KEATING. If the Secretary of Labor reports that such an increase would be detrimental in terms of prices or jobs, it will not necessarily be that the Congress will go along. Is that correct?

Mr. PROUTY. Yes.

Mr. KEATING. Under this amendment, 30 days before the increase goes into effect, the Secretary would report to the Congress. Thereupon, he could suspend this particular increase for 60 legislative days; and before the end of that period it would be up to the Congress to vote to continue the suspension. Is that correct?

Mr. PROUTY. That is absolutely true. The Congress will have the final word in regard to the entire question.

Mr. KEATING. Is it not also true that there is a precedent for this in the present Legislative Reorganization Act?

Mr. PROUTY. I believe so.

Furthermore, discretionary authority was given the Secretary of Labor at the time the Fair Labor Standards Act was enacted, in 1938. He was, I believe, given then the same authority which we are now seeking to provide.

Mr. KEATING. Of course, the opponents of minimum wage legislation predict—and I do not in any way question their sincerity—that great problems will arise following the extension of the Fair Labor Standards Act. Personally, I do not accept that view; and I do not think the Senator from Vermont accepts it, either. Nevertheless, it seems logical that we should provide a mechanism, such as that embodied in the pending amendment, so that if they are correct and if we are wrong, more congressional study can be given to the conditions which exist in these industries, before future scheduled increases in the minimum wage are put into effect.

It seems to me this amendment is helpful in that regard, and is deserving of our support.

Mr. PROUTY. I am very grateful to the Senator from New York for his very constructive remarks.

I should like to point out very definitely that this amendment is not an effort on my part to sabotage the minimum-wage bill. I intend to vote for increases in the minimum wage, regardless whether this amendment is made a part of the bill or is rejected.

Mr. BUSH. Mr. President, will the Senator from Vermont yield to me?

Mr. PROUTY. I yield.

Mr. BUSH. I should like to observe that in my opinion the amendment is not offered in an attempt to sabotage the bill. The amendment is offered in an attempt to fortify the bill and to provide some protection to the entire economy and to the working men and women who are involved. I think the Secretary of Labor should not only be trusted, but he should also be charged by Congress with responsibility to examine and to make sure, each time a step-up of the minimum wage goes into effect, so as to be sure that more good than harm will result, and that no substantial harm will come from the step-ups.

Mr. PROUTY. Yes; and I think the Secretary of Labor may very well welcome this authority.

Mr. BUSH. I should think he would.

Mr. KEATING. Mr. President, will the Senator from Vermont yield further to me?

Mr. PROUTY. I yield.

Mr. KEATING. Supplementing what the distinguished Senator from Connecticut has said, inasmuch as I favor an increase of the minimum wage, as does the Senator from Vermont, and inasmuch as I will vote for the bill, as will the Senator from Vermont, either with or without the adoption of this amendment, I believe this amendment constitutes a constructive move which would make the pending bill more acceptable to those whose views differ with ours. It seems to me that this amendment could be a means of convincing those who now are in opposition. I believe that the adoption of the amendment will be a constructive step toward obtaining the enactment at this session of the type of a minimum-wage legislation which many of us believe to be desirable.

Mr. PROUTY. I thank the Senator from New York.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an explanation of the Prouty-Bush amendment and also certain questions and answers which explain the amendment in some detail.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF PROUTY-BUSH AMENDMENT, WHAT THE AMENDMENT DOES

1. Requires the Secretary of Labor to report to Congress within 30 days of the time the step-by-step minimum wage increases go into effect whether or not:

(a) Any such increase is likely to result in a substantial increase in the cost of living, and

(b) Any such increase is likely to result in substantial unemployment in any industry affected by the minimum wage increases.

2. Authorizes the Secretary to suspend the minimum wage increases if his report shows that a substantial increase in the cost of living or substantial unemployment in one or more industries is likely to result from the scheduled increases. The Secretary may suspend the increases for such period of time as he shall deem advisable. However, any such suspension shall end not later than the expiration of 60 days of continuous session of Congress thereafter.

(NOTE.—The rate of \$1.15 per hour for presently covered employees and the rate of \$1 per hour for newly covered employees, which will go into effect 120 days after enactment of the bill, are not affected by this amendment.)

QUESTIONS AND ANSWERS CONCERNING THE PROUTY-BUSH AMENDMENT

Question. Why is it desirable to give the Secretary of Labor authority to suspend minimum wage increases?

Answer. 1. This is the first time Congress has expanded coverage under the Fair Labor Standards Act since its enactment in 1938.

2. The bill schedules step-up increases in minimum wage rates over a 4-year period. It is impossible to predict what effect these increases will have on newly covered industries and low wage industries.

3. Authority must be given to the Secretary to suspend increases where economic conditions warrant because the raises will become effective at times when Congress is not normally in session.

4. The amendment will enable those who wish to vote for a higher minimum wage and expanded coverage to do so in a more responsible manner. The original minimum wage law provided for step-up increases from 25 cents to 40 cents, but authority was given to exempt from the 40-cent minimum any industry in which the rate would substantially curtail employment. We should exercise the same degree of caution today.

5. The amendment requires a timely report on the possible effects scheduled minimum wage increases will have on prices and unemployment. We cannot rely on the annual report of the Department of Labor which will be received by Congress 9 months before the various minimum wage increases go into effect.

Question. Is the Secretary required to suspend a scheduled minimum wage step-up if he finds that such an increase will add substantially to unemployment or the cost of living?

Answer. No, this is entirely at the Secretary's discretion.

Question. For how long a period of time may the Secretary suspend any scheduled increase in minimum wage?

Answer. For 20 days, 30 days, or such period as he may deem advisable. But the period may not exceed the expiration of 60 calendar days of continuous session after the suspension has begun.

Question. What happens if the Secretary suspends a scheduled minimum wage increase and Congress takes no action to continue such suspension?

Answer. The increase will take effect at the end of the suspension period or after the expiration of 60 calendar days of continuous session of the Congress, whichever occurs sooner.

Question. If a minimum wage increase is causing a problem in only one industry, may the Secretary suspend the increase only with respect to that industry?

Answer. Yes.

Question. Suppose the Secretary finds that if a minimum wage rate increase goes through plants in one industry will close down and people will be thrown out of work because the plants will be unable to compete with foreign producers—what action may the Secretary take?

Answer. He may suspend the rate increase with respect to that one industry.

Question. If the Secretary suspends the minimum wage increase affecting one industry because the increase will cause substantial unemployment—what rate will prevail with respect to that industry and with respect to other covered industries?

Answer. The other covered industries will receive the scheduled step-up increase. The industry with the unemployment problem will be required to pay not less than the rate in effect immediately prior to the suspension.

Mr. PROUTY. Mr. President, I yield back the remainder of the time available to me.

Mr. MANSFIELD. Mr. President, I yield back the remainder of the time under my control.

The PRESIDING OFFICER. All remaining time on the amendment has been yielded back.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. I announce that the Senator from Oklahoma [Mr. KERR] is absent on official business.

I also announce that the Senator from Virginia [Mr. ROBERTSON] is absent because of illness.

On this vote, the Senator from Oklahoma [Mr. KERR] is paired with the Senator from Virginia [Mr. ROBERTSON]. If present and voting, the Senator from Oklahoma would vote "nay," and the Senator from Virginia would vote "yea."

Mr. KUCHEL. I announce that the Senator from Wisconsin [Mr. WILEY] is absent because of the death of his brother.

The result was announced—yeas 39, nays 58, as follows:

[No. 31]

YEAS—39

Aiken	Cotton	Kuchel
Allott	Curtis	Lausche
Beall	Dirksen	McClellan
Bennett	Dworshak	Morton
Boggs	Eastland	Mundt
Bridges	Ervin	Prouty
Bush	Fong	Russell
Butler	Goldwater	Saltonstall
Byrd, Va.	Hickenlooper	Schoeppel
Capehart	Holland	Scott
Carlson	Hruska	Thurmond
Case, S. Dak.	Jordan	Williams, Del.
Cooper	Keating	Young, N. Dak.

NAYS—58

Anderson	Hartke	Morse
Bartlett	Hayden	Moss
Bible	Hickey	Muskie
Blakley	Hill	Neuberger
Burdick	Humphrey	Pastore
Byrd, W. Va.	Jackson	Pell
Cannon	Javits	Proxmire
Carroll	Johnston	Randolph
Case, N. J.	Kefauver	Smathers
Chavez	Long, Mo.	Smith, Mass.
Church	Long, Hawaii	Smith, Maine
Clark	Long, La.	Sparkman
Dodd	Magnuson	Stennis
Douglas	Mansfield	Symington
Ellender	McCarthy	Talmadge
Engle	McGee	Williams, N. J.
Fulbright	McNamara	Yarborough
Gore	Metcalf	Young, Ohio
Gruening	Miller	
Hart	Monroney	

NOT VOTING—3

Kerr	Robertson	Wiley
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So the Prouty-Bush amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER (Mr. BURDICK in the chair). The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

Mr. ALLOTT obtained the floor.

Mr. DIRKSEN. Mr. President, will the Senator yield.

Mr. ALLOTT. I yield to the Senator from Illinois.

Mr. DIRKSEN. I should like to ask the majority leader, what is to be the schedule for the remainder of the day?

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished minority leader, it is my understanding the able Senator from Colorado [Mr. ALLOTT] wishes to offer an amendment, which may well be accepted by the committee.

I further understand that the Senator from Oklahoma [Mr. MONRONEY]

will offer an amendment, and that we may have an opportunity to vote on the amendment tonight. If we do not vote on the amendment tonight, I am sure we can come to some reasonable arrangement to have a yea-and-nay vote on the amendment immediately after the conclusion of morning business tomorrow.

There are a number of amendments to be offered by the junior Senator from Arizona [Mr. GOLDWATER], which I assume will be offered tomorrow, in view of the festivities in store tonight.

Mr. GOLDWATER. I did not understand the Senator.

Mr. MANSFIELD. I said I assumed the Senator from Arizona would offer his amendments tomorrow.

Mr. GOLDWATER. I imagine there will be too little time this evening to discuss them. The amendments are not long and the discussion will not be too involved, but I think tomorrow would be a more opportune time, in view of the business at hand after 6:30 this evening.

Mr. DIRKSEN. Mr. President, I have one further question.

It would appear that after disposition of the amendment to be offered by the distinguished Senator from Colorado, there will be no further yea-and-nay votes this evening?

Mr. MANSFIELD. There will be one more, if possible. The Senator from Oklahoma indicates he will not take very long. I am sure the Senator from Michigan [Mr. McNAMARA] will not take long.

Mr. PASTORE. A parliamentary inquiry, Mr. President.

Mr. McNAMARA. Mr. President, a couple of Senators on our side of the aisle wish to speak.

Mr. MANSFIELD. Mr. President, with the consent of the minority leader and of the Senator from Oklahoma, I ask unanimous consent that we finish the 1 hour's debate, if need be, on the Monroney amendment tonight, and that a yea-and-nay vote be taken immediately after the conclusion of morning business tomorrow.

Mr. MONRONEY. Mr. President, reserving the right to object—and I hope I shall not have to object—I think it would be unfair to both sides to complete debate with the announcement that no vote will be taken tonight. Senators would be absent from the Chamber.

This is an important constitutional question. I am perfectly willing to vote tonight, and to cut my presentation as short as possible, but I think, in light of the importance at least the administration has attached to the amendment, we should debate the amendment in full tomorrow, or debate it tonight and agree to vote at 6:30 p.m.

Mr. LAUSCHE. Mr. President, will the Senator yield to me?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate vote on the Monroney amendment at 6:30 tonight.

Mr. LAUSCHE. Mr. President, I should like to have some time on the amendment.

Mr. MANSFIELD. The Senator will get some time; I promise.

Mr. HOLLAND. Mr. President, I object.

ORDER FOR ADJOURNMENT UNTIL TOMORROW AT 11 O'CLOCK A.M.

Mr. MANSFIELD. Mr. President, after consultation it has been decided, with the concurrence of the Senate, that the Monroney amendment will not be taken up until tomorrow at the conclusion of the morning hour, and that this evening, in the time remaining, other amendments will be considered, and the Senate will then adjourn until 11 o'clock tomorrow morning.

I had previously made a request for unanimous consent that when the Senate adjourns today, it adjourn to meet at 12 o'clock noon tomorrow. I now change that request and ask that when the Senate adjourns today, it adjourn until 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. ALLOTT. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from Colorado will be stated.

The CHIEF CLERK. On page 29, line 4, it is proposed to insert between the words "restaurant" and "motion" after the comma, the word "or."

On the same line, it is proposed to insert a semicolon instead of the comma after the word "theater."

On the same line, it is proposed to insert after the word "or" the word "is."

Mr. ALLOTT. Mr. President, the amendment is a simple perfecting amendment that was submitted for the purpose of making clear the intention of the committee, which is that the qualification of operating on a seasonal basis should apply only to amusement and recreational establishments and not to hotels, motels, restaurants, and motion picture theaters. I have discussed the amendment with the chairman of the subcommittee, and I believe he is willing to accept it.

Mr. McNAMARA. Mr. President, the amendment is in the nature of a perfecting amendment, and we are happy to accept it in the form presented.

Mr. HOLLAND. Mr. President, will the Senator yield for a question?

Mr. ALLOTT. I yield.

Mr. HOLLAND. As I understand the purpose of the amendment—and I ask the attention of the Senator from Michigan [Mr. McNAMARA]—the purpose of the amendment is to make clear the words "that operates on a seasonal basis," which appear at the end of that particular sentence, do not apply to the

words "hotel, motel, restaurant and motion picture theater."

Mr. McNAMARA. The Senator is correct.

Mr. HOLLAND. But apply only to the amusement and recreational establishments.

Mr. ALLOTT. The Senator is correct. It is my understanding that such was the intention of the committee originally. The amendment now offered would make the intention clear, and I believe the present legislative history would make it clear.

Mr. HOLLAND. I believe the amendment is a good one. I recall having made the request of the committee that the committee include in the bill an exemption of amusements or recreational establishments operating on a seasonal basis.

Mr. McNAMARA. The Senator is correct.

Mr. HOLLAND. There was no intention to have the seasonal provision apply to other areas, and I believe if the amendment clarifies that subject, it certainly should be agreed to.

Mr. ALLOTT. Mr. President, I yield back the remainder of my time.

Mr. McNAMARA. Mr. President, I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Colorado.

The amendment was agreed to.

Mr. GOLDWATER. Mr. President, I call up my amendment 4-13-61—H, and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from Arizona will be stated.

The LEGISLATIVE CLERK. On page 16, line 7 through 20, it is proposed to strike out all of subsection (e) and insert in lieu thereof the following:

(e) (1) On his own motion, or upon the complaint by any labor organization, trade association, or industry group that an article is being imported into the United States in such substantial and increasing ratio to domestic production of like or competitive articles as to threaten or undermine the maintenance of the minimum standards of living necessary for the health, efficiency, and general well-being of the American workers affected, due in whole or part to the fact that as a result of being produced under labor conditions below the minimum standards required by the laws of the United States and the several States to be maintained by the domestic producers supplying the like or competitive articles in the principal markets of the United States where the unfair import competition is encountered, such imported article is being sold with an unfair competitive advantage in relation to the like or competitive articles of domestic origin, the Secretary of Labor shall promptly make an investigation which shall include hearings on reasonable public notice at which interested parties may be present, produce evidence, and be heard.

(2) If the Secretary thereupon shall find the existence of such facts, he shall recommend to the President that such article be permitted entry into the United States only upon such terms and conditions and subject to the payment of such import duties (in addition to any duties otherwise provided by law) and to such limitations in the total quantity which may be imported (in the course of any specified period or periods),

either on a global or country-of-origin basis, as he shall find necessary in order to prevent the continuation of such conditions.

(3) Upon receipt of the report of the Secretary's investigation, findings, and recommendations, the President may by proclamation make effective the Secretary's recommendations, and the Secretary of the Treasury shall, through the proper Customs officers, permit entry of the article or articles specified only on the terms and conditions and subject to such import duties, and to such quotas as the President shall have directed in his proclamation.

(4) Any conditions, duties, and quotas imposed on the entry of an article under this section shall continue in effect until the President acting on a recommendation of the Secretary of Labor pursuant to findings made in a supplemental investigation held not less frequently than biannually, thereafter shall terminate or modify his proclamation on finding that the conditions on which it was based no longer exist.

Mr. GOLDWATER. Mr. President, the committee bill contains a provision authorizing the Secretary of Labor, when he has reason to believe that foreign competition has resulted or may result in unemployment in the United States, to make an investigation of the matter and if he determines that such unemployment has resulted or may result, to report his findings to the President and the Congress.

That low-cost foreign competition has become an important factor for both American labor and industry is now a matter of common knowledge. There are many of us who fear that an increase in the minimum wage will raise the costs of doing business in the United States, further weaken the competitive position of American trade and industry, and result in an increase in unemployment among American workers.

The provision in the committee bill recognizes this possibility but makes only a futile gesture in dealing with it. My amendment actually comes to grip with the problem and offers a procedure for helping to solve it.

My approach is not a new one. When the Fair Labor Standards Act was originally under consideration in the late thirties, this question of low-wage foreign competition was a factor to which the Congress gave serious thought. This is reflected not only in the legislative background of the Fair Labor Standards Act but also in that of the Federal wage-fixing legislation which preceded it, the National Industrial Recovery Act. I should therefore like at this point to call the attention of the Senate to some of this background.

Referring back to the National Recovery Act of 1933 for some history of the interest of Congress in this subject, the National Industrial Recovery Act of 1933 provided for the establishment of codes of fair competition under which domestic producers were obliged to limit the hours of labor, pay a minimum wage, and sell their products at a fixed price not incompatible with the public interest. This bill was handled in the Senate by the Senate Finance Committee. In reporting the bill which became the law, the committee added a provision—Section 3(e)—to the effect that—

Upon complaint to the President that articles are being imported into the United

States to the detriment of any industry with respect to which a code of fair competition is in effect, resulting in unfair methods of competition in the United States, the President may cause an investigation to be made. If after public notice and hearing the existence of unfair methods of competition shall be found, the President may exclude the articles concerned from entry into the United States, and the decision of the President is to be conclusive. The refusal of entry is to continue until the President finds that the conditions which led to the refusal no longer exist. (S. Rept. 114, p. 2, 1933.)

Mr. ALLOTT. Mr. President, will the Senator yield for a question?

Mr. GOLDWATER. I am happy to yield to the Senator from Colorado.

Mr. ALLOTT. The amendment has considerable merit. I intend to make a speech on the floor of the Senate on exactly this situation. There seems to be a presumption that somehow or other all the steel mills in the country are picking up and doing well. However, some the mills which do fabricating work, such as the Colorado Fuel & Iron Co., of Pueblo, Colo., find themselves in direct competition with Belgium, West Germany, Japan, and other countries, to the extent that they are literally having their markets swept out from under them. This is because in Japan and in other places, products such as fencing, barbed wire, nails, and so forth, are produced at a much lower labor cost than in America.

At some time, somewhere, we in the United States must come to grips with the problem of our so-called free-trade policy and realize that it has not worked in this respect. We have not raised the wages of workers in Japan, and certainly we have not done it in Germany, although their wages have come up. We have not done it with respect to the miner in South America. This may be an opportunity to start to come to grips with the problem; because in the lead and zinc industry, and other industries, such as fluorspar and last year with respect to the importation of mutton and lamb—the Tariff Commission has repeatedly refused to take action in this field.

It seems to me that the approach of the Senator from Arizona is very worthwhile and very meritorious, and should be given serious thought. I for one shall vote for the pending amendment because I believe we must force the Tariff Commission to take a look at the things which are depleting business after business in the United States.

Mr. GOLDWATER. I thank the Senator from Colorado. Coming as he does from the West, and representing his State so ably, he speaks with knowledge of the damage which has been done. It is damage which in many instances cannot be repaired, particularly in the lead and zinc industry in the West.

I point out to the Senator from Colorado that what we are about to do on the floor of the Senate can contribute as much to this problem as the actual impact of foreign competition, in that we would raise the wages by Government fiat and not allow the wages to seek the level that they should reach by the operation of the law of supply and demand in a free-enterprise system.

When we do this, there is only one economic result. What is income or wages to one man is the cost factor to another man. It has always been so, and I hope it will always be so.

Cost being the great determinant of profit or lack of profit, the cost must be kept at a relatively stable figure. It cannot go up and down. It must remain where experience has proven we can make a profit. Let us not fool ourselves. Profit is the desire and result of the operation of our economic system.

Having forced up an important component of cost, the only way the businessman has of getting that cost back, which is reflected as income to the worker, is to raise prices. This is particularly true in what we might call the lower price end of our goods, where the competition is the greatest from abroad, particularly Japan and Hong Kong and the other places which are producing finished products of fabric.

The example which the Senator from Colorado has offered with reference to lead and zinc can be matched by the example we find in the textile industry today, where there are more than 300,000 people out of work as a direct result of foreign competition. One out of every eight people gainfully employed in industry in this country is employed in an industry which is related to the textile industry. This is an act of Congress which is contributing to the woes of the workers of America, not to the good of the workers of America. If it were possible for the Government to allow the law of supply and demand to operate instead of having the economy operate under the Government, then we would not have much trouble with economics.

However, I suggest that this is something called socialism, when the Government operates the economic system. The step that we are about to take in the Senate—it is obvious that it will be taken—will without doubt result in higher prices, because it has so resulted in the past.

One other action that was taken by Government recently which will add to the woes of the textile people is that we are selling, to countries like Japan, American surplus cotton at 8½ cents below the purchase price. That is 8½ cents lower than our own textile mills have to pay for it. That cost advantage to Japan, added to their low wage scale, is one reason why I see no hope for the textile industry of this country recovering from the very damaging blow it has received from foreign competition.

Mr. ALLOTT. Mr. President, will the Senator yield further?

Mr. GOLDWATER. I yield.

Mr. ALLOTT. I intend to make an address on the floor of the Senate this week documenting this case in full. However, I refer to a very old established steel mill in Pueblo, Colo., producing fabricated products—not only wire, but also pipe and nails, and all sorts of similar products. I intend to document on the floor of the Senate that this company is being squeezed out of business by the imports from cheap labor areas abroad. This is what the Senator's amendment seeks to attack.

I suppose some people would say that what I am doing is speaking for a corporation. I am not. I am speaking for 10,000 men, representing 10,000 families in Pueblo, Colo., who want work and who need work. While we go down one alley by passing a depressed areas bill, we are at the same time permitting a situation to continue which permits cheap-labor goods, which are not competitive from the labor standpoint with our goods, to come into the country. This is the reason I believe the Senator is performing a worthwhile service toward directing some effort, finally, to the protection of our own people.

I thank him for yielding.

Mr. GOLDWATER. I thank the Senator from Colorado. Very definitely the Senator is not arguing on behalf of a corporation, because the corporation has a very easy way out in this situation. The corporation can buy these materials cheaper abroad. If it were not for the concern of many corporations for their own workers, more and more of them would be buying their steel in Belgium, in Germany, or in Japan, and buying their fabrics, and goods manufactured from fabrics, from Japan and other countries.

I could cite many examples of corporations which have ceased their manufacturing business in this country and are now importing because they can buy their goods cheaper abroad than they can be made in this country.

Mr. ALLOTT. That is correct. One can go into almost any town or city in Colorado today and buy barbed wire manufactured in Belgium, Germany, Japan, and other countries at a price cheaper in the store than it can be bought from the steel mill which produces it in Pueblo, and for only one reason, namely, the cost differential due to the low labor prices abroad.

Mr. GOLDWATER. The Senator comes from a Western State, as do I. In our part of the country, we know what barbed wire is. I am told that the largest manufacturer of barbed wire now buys it from Belgium. The barbed wire which fences in the cattle in the West is imported. This wire could be manufactured in the United States as inexpensively as it can be made in Belgium, if there were not the great differential in wages. It could still be manufactured in this country if the New Frontier would recognize that a more liberal depreciation allowance must be granted to the manufacturers in this country before they will modernize their equipment, and thus allow companies making wire of any kind to make it faster and cheaper, even with the higher wage scale in this country. It could be done, but American manufacturers are not receiving the encouragement to the economy which they should be receiving from the New Frontier; in fact, they are receiving discouragement from it in the guise of acts which it is said will help the workingman. Actually, such laws have not helped the working man in the past; they have been detrimental to his well-being.

I am interested to learn that unions are aware of the damaging effects which

foreign markets are having in our economy, and probably to a greater extent than we are.

I have before me an article taken from the Wall Street Journal, which tells of a Chicago labor union preparing to oppose the installation of electronic parts made in Japan. I could relate the difficulties which electronic manufacturers in my part of the United States are having with Japanese-made imports in competitive fields.

I believe the amendment I am offering is one which is really needed. It is obvious that the relief which has been provided to be afforded through the Tariff Commission has not worked. The Commission has blocked such relief. It has erected a wall across this avenue, and it seems that those who seek relief can never get through the wall.

During the debate on the bill in the Senate, Senator Walsh of Massachusetts offered a substitute for the committee amendment. This was accepted by the Senate and became section 3(e) of the bill which was enacted into law. In lieu of the power of the President to exclude entirely articles which he found to be imported to the detriment of an industry subject to a code of fair competition, the Walsh amendment empowered the President to permit entry of the offending imports into the United States "only upon such terms and conditions and subject to the payment of such fees and to such limitations in the total quantity which may be imported (in the course of any specified period or periods) as he shall find it necessary to prescribe in order that the entry thereof shall not render or tend to render ineffective any code or agreement made under (the act)."

In lieu of investigation by the President, the Walsh amendment provided for an immediate investigation to be made by the Tariff Commission on complaint of a labor organization or trade association.

In explaining the purpose of his amendment to the Senate, Senator Walsh stated:

Mr. President, the committee amendment was originally proposed by the Senator from Pennsylvania, Mr. Reed. The committee felt that the effectiveness of the measure would be greatly restricted, if not destroyed, unless there were some provision giving the President authority to restrict imports that would be in competition with the domestic producers who were obliged to comply with codes fixing limited hours of labor, with a minimum wage, and sell their products at a fixed price not incompatible with the public interest. The proposal of the Senator from Pennsylvania gave the President the power of embargo. He could declare that particular imports were tending to destroy the effectiveness of the measure and prevent their being imported into the country.

The substitute which I have proposed has been submitted to the Senator from Pennsylvania and meets with his approval. It has been submitted to the Senator in charge of the bill, Mr. Harrison. We all believe that it is preferable to the committee amendment. It retains the power for the President to embargo when necessary, but also gives him, which he does not possess under the committee amendment, the power to impose limitations upon the amount of imports that may be permitted to enter the coun-

try, and also gives him the power to compel importers, where imports are restricted, to take out a license, so that he can prevent their violating his regulations.

So far as I understand, everyone interested in this particular phase of this bill is in accord; and I assume the amendment will be adopted (CONGRESSIONAL RECORD, p. 5291, June 8, 1933).

During the debate, Senator Reed, of Missouri, commented that "the whole effect of the bill is going to be to raise American costs and American prices."

He explained his support for the bill in view of this fact as follows:

We cannot compel the foreigner to unionize his labor. We cannot compel the foreigner to pay minimum rates of wages. We cannot compel the foreigner to cut down his workday to 30 hours a week. We cannot compel him to join a code of fair competition. The effect of the bill, without some such protection as this, would be to hand over to the foreigner the entire American market.

Therefore I am very glad that the Senator from Massachusetts is offering an amendment that will go as far as we constitutionally can go (CONGRESSIONAL RECORD, p. 5292, June 8, 1933).

There was very little adverse comment in the Senate about the import provision of the bill or the Walsh amendment. Senator Gore was the chief critic, and in response to an inquiry by him as to whether the President should not be authorized to reduce duties as well as to raise them, Senator Walsh replied as follows:

The amendment proposed by me is simply to make effective the purpose of title I of this act. It is inconceivable that hours of labor can be reduced, and wages fixed, and prices of commodities established by a governmental agency and no power given to the same agency to prevent a flood of imports into this country. Without such an amendment, the whole act would be ineffective.

How is it possible to reduce working hours, increase wages, put more people to work, and fix the prices of commodities so that wages will be higher, without some restriction or some control over the importations into this country that are to compete with labor and wages that are regulated under this bill? The purpose of the amendment is to give the President the same authority over these imports that he is assuming over domestic production and products (CONGRESSIONAL RECORD, p. 5292, June 8, 1933).

When the bill went to conference the House receded, accepting the Senate amendment.

The Fair Labor Standards Act as it was originally conceived by both the Senate and House committees which handled the legislation included as an essential part measures for adjusting imports by additional duties or quotas so that the sale in the United States of goods produced abroad under the type of labor conditions forbidden by the act would not defeat the purposes of the act.

As reported by the House Labor Committee, House Report No. 1452—corrected print—75th Congress, 1st session, the fair labor standards bill contained a provision for the regulation of imports produced under substandard labor conditions whose sale in the United States would tend to defeat the purposes of the act. The text of this provision is set

forth in appendix I to this memorandum. Concerning this provision, the House report stated:

Sections 8 (c) and (d) are new tariff provisions proposed as a committee amendment. These provisions authorize the President, after investigation by the Tariff Commission, and upon the recommendation of the Commission, to make such increases in the duty, or to impose such limitations on the quantity permitted entry (or entry without duty increase), as may be necessary in order to equalize differences in the costs of production of any domestic article and of any like or similar foreign article resulting from the operation of the Labor Standards Act and in order to maintain the standards established pursuant to the act. In case of any article on the free list of the Tariff Act of 1930, possible action is limited to import quotas.

The provisions are so drawn that remedial action is possible with respect to any item, whether or not it is included in any trade agreement, present or future. With respect to a trade agreement item, however, possible action is limited to import quotas, since any increase in the duty on such an item would be in violation of the trade agreement. Section 8(d) contains the specific provision that "Nothing in this section shall be construed as permitting action in violation of any international obligations of the United States." Section 8(d) further provides in the case of quotas that the quantities permitted entry, or entry without an increase in duty, shall be allocated to the supplying countries on the basis of the proportion of imports from each such country in a previous representative period. This provision is designed to assure against the discriminatory allocation of such quotas contrary to the letter and spirit of our existing international obligations and policies.

This tariff provision was consistent with the purposes of the legislation. As stated in the President's message recommending the enactment of fair labor standards legislation—House Document No. 255, 75th Congress, 1st session:

And so to protect the fundamental interests of free labor and a free people we propose that only goods which have been produced under conditions which meet the minimum standards of free labor shall be admitted to interstate commerce. Goods produced under conditions which do not meet rudimentary standards of decency should be regarded as contraband and ought not to be allowed to pollute the channels of interstate trade.

The bill was reported by the House Labor Committee on August 6, 1937, and contained 30 amendments which had been added by the committee to the form of the bill as originally introduced. The Rules Committee failing to grant a rule, a petition to discharge the bill from the Rules Committee was filed on December 6, 1937, and was debated in the House on December 13 and 14, 1937. Three days after the House committee had reported the bill, William Green, president of the American Federation of Labor, wrote to all Members of Congress as follows—82 CONGRESSIONAL RECORD 1485:

I sincerely hope you may find it possible to vote for the enactment of the wage and hour bill without any substantial change in the form and character in which it is reported to the House.

During the debate on the committee bill in the House, Representative McLean, of New Jersey, commented on the

import adjusting provision of the committee bill, as follows—82 CONGRESSIONAL RECORD 1492, December 14, 1937:

If a manufacturer determines to produce an article for which there is a demand, his first thought is to produce it at a price people are willing to pay. His cost of production depends on the cost of raw materials, the cost of labor, and what we ordinarily know as overhead, being the interest on his investment in his plant, insurance, taxes of several sorts, and selling cost. If the price he can obtain for his article will cover these items and give him a reasonable profit, his efforts will be successful.

Therefore, if you would fix the price he must pay for his labor, you must guarantee to him, and the consumer must be compelled to pay, a price which will guarantee a sufficient return to pay the compulsory wages. But that is where the scheme breaks down. While you may inflict penalties on the manufacturer, you cannot make a criminal out of a consumer because he does not buy the things you think he should at a price you require he should pay.

Anticipating this situation, the pending bill attempts to meet it by providing for the Administrator to make adjustments of wage levels, and, as to foreign-made goods, by giving the U.S. Tariff Commission the power to adjust import duties on foreign articles which compete with domestic articles resulting from the operation of this act.

During the debate in the House on December 14, 1937, Representative Cooper objected to the tariff provision in the committee bill, on the ground that acceptance of the bill by the House would be tantamount to writing a tariff bill, which would violate the jurisdiction of the Ways and Means Committee—82 CONGRESSIONAL RECORD 1578. This point of order was sustained—82 CONGRESSIONAL RECORD 1580.

Thereupon Mrs. Morton offered as an amendment the provisions of a "clean bill" which included an import-adjusting provision, the text of which is attached to this memorandum as appendix 2—82 CONGRESSIONAL RECORD 1583.

Subsequently, Representative Hartley moved to recommit the bill. This motion was sustained by a vote of 216 to 198.

During the 3d session of the 75th Congress, a revised Fair Labor Standards bill was reported to the House. During the debate on the bill it was stated that the revised bill had been drafted in the Department of Labor, and had not been considered or discussed more than 1 hour by the full House Labor Committee before being reported—83 CONGRESSIONAL RECORD 7295, May 23, 1938. This bill contained no tariff provision.

During the debate in the House on the revised bill, a tariff provision was offered as an amendment by Representative McLean—83 CONGRESSIONAL RECORD 7436, May 24, 1938. The text of this tariff provision is attached to this memorandum as appendix 3. This provision was identical with section 3(e) of the National Industrial Recovery Act. Representative McLean made the following remarks in support of his amendment—83 CONGRESSIONAL RECORD 7437—

The PRESIDING OFFICER (Mr. Long of Missouri in the chair). The

time available to the Senator from Arizona has expired.

Mr. MANSFIELD. Mr. President, how much additional time does the Senator from Arizona wish to have? Ten minutes?

Mr. GOLDWATER. We can try that.

Mr. MANSFIELD. Or 15 minutes.

Mr. GOLDWATER. Let us try 10 minutes.

Mr. MANSFIELD. Very well; I yield 10 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for an additional 10 minutes.

Mr. GOLDWATER. I thank the Senator from Montana.

Mr. CURTIS. Mr. President, will the Senator from Arizona yield?

Mr. GOLDWATER. I am happy to yield.

Mr. CURTIS. I am very much interested in the Senator's amendment, because of the protection it would give American workers. Certainly we must not take the position that the great American market should be open to those who sell at the lowest prices, because if we were to do that, we would be turning over the American market to the groups outside our country who are most successful in exploiting human labor.

I should like to ask this question: To what extent would the findings of the Secretary of Labor be referred to the Tariff Commission; and would there be duplication?

Mr. GOLDWATER. I may say to the Senator from Nebraska that the findings would not be referred to the Tariff Commission. Instead, they would be referred to the President.

Mr. CURTIS. I understand.

Mr. GOLDWATER. And the President would be given the right to act or not to act.

I now read from the amendment:

The President may by proclamation make effective the Secretary's recommendations, and the Secretary of the Treasury shall, through the proper Customs officers, permit entry of the article or articles specified only on the terms and conditions and subject to such import duties, and to such quotas as the President shall have directed in his proclamation.

Mr. CURTIS. In other words, the Senator's amendment would charge the Secretary of Labor with the duty of looking after the interests of the American working people and with making that determination; and if the President accepts his findings, the President will not be limited by tariff statutes or trade agreements?

Mr. GOLDWATER. The Senator from Nebraska is absolutely correct. In fact, the amendment refers the matter to the Secretary of Labor, and I think that is a proper reference.

My amendment provides:

On his own motion—

Meaning the Secretary can on his own motion—

or upon the complaint by any labor organization, trade association, or industry group that an article is being imported into the United States in such substantial and increasing ratio to domestic production of like or competitive articles as to threaten or

undermine the maintenance of the minimum standards of living necessary for the health, efficiency, and general well-being of the American workers affected, the Secretary of Labor shall promptly make an investigation which shall include hearings on reasonable public notice at which interested parties may be present, produce evidence, and be heard.

Mr. CURTIS. I shall not take a great deal more of the Senator's time, since the time is controlled, but it is my belief that the President could grant relief to American workers even in situations where we have trade agreements with the offending country, because the trade agreements have not been ratified as treaties, and they are merely executive agreements.

Mr. GOLDWATER. The Senator is correct. I agree completely with the arguments—and they are very old—which I am reading from the House documents, made in the early 1930's and the late 1930's, that this is not, in effect, tariff legislation. The proposal, in this case, merely charges the Secretary of Labor with looking after the interests of the American worker, and it works in a very simple way. While the Tariff Commission at the present time is supposed to work in a simple way—and it probably does—it works in a devious way and goes by a circuitous route that never seems to produce the result needed. I can think of only one instance—and I will stand corrected if I need to be—in which the Tariff Commission has yielded to the demands of industry, and that was in the case of the lead and zinc industry recommendation that the President be allowed to put into effect an increase in order to allow competition with foreign imports.

Mr. CURTIS. It is the Senator's intention, is it not, that the Tariff Commission would turn over such information as it had obtained? There would be no duplication; would there?

Mr. GOLDWATER. Certainly, this amendment does not call for duplication. This is a responsibility that is not new. For 30 years many persons have felt that the Secretary of Labor had this responsibility.

In other words, what we are doing—and let us admit it—by legislative fiat is pre-empting the field of supply and demand, preempting the field of the normal operation of the free enterprise system, where the wage level is determined by the amount of the productivity of the individual, in most cases—not in all cases. When we do this, we must recognize that, by imposing an artificial increase, we shall have to raise the price in order to adjust the cost. Otherwise the profit will be diminished or disappear.

Profits are not the astronomical figures that many proponents of such legislation think them to be.

What are we doing? Are we helping the lower paid groups in this country? No. Only about 580,000 persons would be affected. In other words, only 580,000 persons are not making the minimum wage now, and will be affected by the proposed legislation. To say that "covered" and "affected" mean the same is wrong. A very small number will be

affected. I think the figure is one-tenth of 1 percent. However, the one-tenth of 1 percent can have a pyramiding effect on the other 99.9 percent of the working force, so far as payrolls are concerned, which will seriously affect prices. Such an increase always has had that effect. I am not speaking now as a result of gazing into a crystal ball.

I point out that in 1956, when we last adjusted the minimum wage, living costs had gone through a fairly stable period of 4 years; but immediately thereafter, the cost of living jumped, and continued to jump at a rate that was higher than normal.

So I think we all ought to be perfectly aware of what we are doing in this bill. We are not helping the lower paid worker. We are actually putting him on a higher plane of the lower wage, if we might put it that way, \$1.15, or \$1.25, or whatever amount we vote. That will be the underpaid level 1 year from now, and the proponents will be back for some more adjustment.

While I would be the first to admit there are still businesses in this country that still take advantage of their employees, they are considerably fewer than they were when the abuses became so bad that the Fair Labor Standards Act had to be considered.

I think industry in the United States would absorb these inequities, but when the Federal Government attempts to tamper with the economy, that is the only result. As I have said previously, frankly, the chickens are coming home to roost. All the chickens that this body and our companion body on the other side of the Capitol have hatched in the last 30 years are coming home to roost. That fact has been evident, but we have been building roosts for the chickens. Now we ought to get rid of the chickens and stop building the roosts.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GOLDWATER. May I have 10 more minutes?

May I ask the majority leader a question? It is obvious that I am convincing no one but myself, the Senator from Kentucky [Mr. COOPER], and the majority leader.

Mr. CURTIS. Oh, I am being convinced.

Mr. GOLDWATER. I know the Senator from Nebraska has been convinced for some time, because he has the same philosophy on this question that I have.

Mr. CURTIS. When the Senator from Arizona speaks, he fills my mind.

Mr. GOLDWATER. I thank the Senator. I hope that he will continue to have an open mind and that he will be able to fill it with the philosophy which he and I share.

May I ask the majority leader if the Senate is prepared to adjourn at 6:30 p.m.?

Mr. MANSFIELD. Would the Senator object if the 10 minutes which have been yielded to him were taken by him at the conclusion of the morning hour tomorrow?

Mr. GOLDWATER. I shall be glad to do that. This is an important amendment. I am not fooling myself for 1

minute about its chances, but I think Senators from States that have businesses that are affected by foreign imports should have an opportunity to hear a part of this discussion, and what I cannot complete I can certainly put in the RECORD by unanimous consent.

Mr. MANSFIELD. I agree, and I think the Senator is entitled to a larger audience than is present at this time.

Mr. GOLDWATER. I do not know that I am entitled to it, because I do not know that the speaker or the brilliance of the remarks are such that they are entitled to a larger audience. But I get lonesome. The Senator from Montana and I both come from Western States where we are used to standing in the broad expanses where there is nothing but the Lord and the wind. In this Chamber sometimes we do not have the Lord present, but we always have wind present. I am standing here, getting a little lonesome. I would like to address my remarks to a little larger audience.

Mr. MANSFIELD. The Senator is too modest. Then, we shall operate on that basis, with the understanding that at the conclusion of the morning hour tomorrow, the Senator from Arizona will be allowed at least 10 minutes to continue with the discussion of his amendment.

Mr. GOLDWATER. I thank the Senator very much.

NATIONAL MILITARY-INDUSTRIAL AND EDUCATIONAL CONFERENCE

Mr. HRUSKA. Mr. President, the National Military-Industrial and Educational Conference held its seventh annual meeting April 10, 11, and 12, 1961, in Chicago, Ill.

The principal sponsor of this conference was the Institute for American Strategy, a nonprofit educational corporation whose objective is furthering public understanding of the nature of the contemporary totalitarian challenge to American freedom.

It seeks to accomplish this through education programs designed to increase public awareness of the nature, objectives and methods of communism and of the ideals and assets inherent in our free society for meeting its challenge.

The institute is a tax exempt, nonpartisan, privately managed organization financed by the contributions of over 100 of America's corporations and a number of foundations.

The National Military-Industrial and Educational Conference is an open forum for the free discussion of national security and foreign policy problems of the Nation. Past conferences dealt with such subjects as the Soviet economy, the American economy and mobilizing our technical manpower. Through the conference and its many other activities, the Institute seeks to be an agency for the promotion of continuing close cooperation between education, the Government and industry in articulating for the public our national goals and strategy in securing and expanding the areas of human freedom.

On the evening of April 12, it was my privilege to address a session of the conference

at its invitation extended through the Honorable D. A. Sullivan, managing director of the conference.

Mr. President, I ask unanimous consent that a copy of my remarks be printed in the CONGRESSIONAL RECORD, together with a statement by the conference as to its objectives, and the report of its educational advisory committee.

There being no objection, the remarks, statement, and report were ordered to be printed in the RECORD, as follows:

ADDRESS OF SENATOR ROMAN L. HRUSKA BEFORE THE NATIONAL MILITARY-INDUSTRIAL AND EDUCATIONAL CONFERENCE, ON WEDNESDAY, APRIL 12, 1961

In recent years our national policy has been based upon the clear knowledge and appreciation that the Communist movement has been engaged in a relentless, evil conspiracy for over 40 years. That conspiracy has had as its persistent and undeviating aim the overthrow of our country's Government and its replacement with a Communist dictatorship.

The techniques of the conspiracy have changed from time to time, as have the faces of its spokesmen and manipulators. Yet its objectives have never changed.

Our national policy designed to meet the threat of Communist activities is evidenced in many ways.

It is expressed in our \$43 billion national defense budget.

It is seen in the willingness of Congress to provide all necessary funds for the Federal Bureau of Investigation and other intelligence and counterespionage agencies.

It is found in the continuing investigations by congressional committees of subversive activities, with ensuing consideration by Congress of legislation which will be helpful to deal with them.

It is found in the cooperation of State and local law enforcement agencies with Federal antisubversive and counterespionage efforts.

It was given new expression just last week in the Kennedy administration's "white paper" calling on the Castro government of Cuba to "sever its links with the international Communist movement" and expressing confidence that if it fails to do so, the Cuban people "will continue to strive for a free Cuba."

All of the aspects of national policy which I have mentioned are official, governmental efforts. They are necessary, and in fact indispensable.

Yet such efforts fail to make progress in one highly vital area which must be dealt with effectively if our battle against international communism is to be successful.

That area to which I refer is the area of a citizenry keenly aware of the menace of communism within its own ranks. In the effort to create and sustain such awareness the initiative and drive of voluntary private organizations is an important factor.

I have considered the meaningful discussions here in this conference with profound appreciation. I am impressed with the thoughtful and sober way this group of Americans is rededicating itself to the task of keeping up with the changing face of communism. It will have a continuing and growing impact on the national effort to deal with this problem.

By its serious-minded study of the worldwide Communist conspiracy, this conference will help to create among Americans a new appreciation of the problems in the emerging countries of Africa as well as in the established nations of our own hemisphere.

As an example of another meaningful, voluntary contribution by a private organization in the fight against communism, I

would mention the TV film which you have just seen, "The Spy Next Door." We must be appreciative of the willingness of American industry and communications media to produce and show to millions of American television viewers such a serious and well-balanced story of what can happen here as does "The Spy Next Door."

The problem portrayed in this film is neither overdrawn nor the figment of a script writer's lively imagination. As the narrator says, it was based on cold documentary evidence. It represents something that, with different names and different items, has happened here in the past, and will happen here in the future unless we are most vigilant and alert in guarding against it.

It is bad when our military secrets are stolen by the Communist conspirators. It is worse if we allow that conspiracy to undermine our national confidence in democracy and in our heritage of freedom and liberty. It would be even worse if Communist propaganda ever causes us to lose faith and become resigned to the inevitability of the Communist rule of which Khrushchev claims to be the prophet.

Mistake it not: the Communists are doing everything in their power, as they always have done, to capture the minds of Americans and to discredit our institutions. We are seeing currently a shocking example in the Communist attacks on the parliamentary system, including Khrushchev's disgraceful shoe pounding episode in the United Nations.

More than a decade ago, the Communists undertook to discredit our judicial processes in the mass Communist conspiracy trial before Judge Harold Medina in New York; they badgered, they heckled, they engaged in diatribes and shouting and completely obstreperous behavior. It is to Judge Medina's everlasting credit that he maintained his composure and his dignity to such an extent that the effort failed completely then. But today Communists are engaging in the same tactics in rallies, before certain congressional committee hearings and anywhere else they find an opportunity, still trying to discredit our courts and the Congress and to undermine our constitutional processes.

The film, "The Spy Next Door," portrays a situation, the component parts of which could be found in any neighborhood, and in many of our American cities. It is well that it does so; it is important to realize that much of the activity of the Communist conspiracy is to be found on the street and sidewalk level. It is found among folks who are laborers, skilled workmen, scientists and other professional men and women as well as journalists and educators. In this process of educating the people about the aims and the evils of the Communist conspiracy, the background of the home community can wisely be stressed.

Yet in the process of educating ourselves in this field, let us not forget the larger scene of the legislative and diplomatic activities of our Republic.

While there are many examples, I should like to give you only two.

PASSPORT LEGISLATION

The first example pertains to passport regulation.

Prior to June 16, 1958, the State Department would not issue a passport to anyone who was a member of the Communist Party or was under Communist Party discipline, domination or control; or who would travel abroad to assist knowingly the international Communist movement. This policy was based upon regulations formulated in the State Department under Secretary of State Acheson in their modern form, and later revised under Secretary of State Dulles.

On June 16, 1958, the Supreme Court invalidated these regulations on the grounds

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

Issued April 20, 1961
For actions of April 19, 1961
87th-1st, No. 66

CONTENTS

Acreage allotments.....	11
Agricultural credit.....	7
Appropriations.....	10
Budget.....	10
Depressed areas.....	18
Education.....	23
Farm labor.....	6, 15, 21
Farm program.....	7
Federal aid.....	16
Feed grains.....	13
Foreign trade.....	2
Lands.....	8, 19
Minimum wage.....	1
Nominations.....	3
Prices.....	11
Property.....	20

Public Law 480.....	2, 7
Special milk.....	7
Surplus commodities.....	2
Textiles.....	5, 17
Transportation.....	12
Vehicles.....	9
Water pollution.....	14
Water resources.....	22

HIGHLIGHTS: Senate committee voted to report bill to provide additional authorizations for Public Law 480. Rep. Cooley urged enactment of Administration farm bill. Senate committee reported nomination of Bertsch to be Farmers Home Administrator. Senate debated minimum wage bill. Senate committee reported bill to authorize temporary reapportionment of pooled acreage allotments.

SENATE

1. MINIMUM WAGE. Continued debate on H. R. 3935, to amend the Fair Labor Standards Act and increase the minimum wage gradually to \$1.25 an hour. pp. 5849-87
Agreed to the following amendments:

By Sen. Hill to exempt from the Act workers who may occasionally engage in livestock auction operations as an adjunct to his regular work of raising livestock. pp. 5878-9

By Sen. Young, N. Dak., to exempt from the Act workers employed at country elevators that market farm products for farmers. p. 5883

By Sen. Russell to exempt from the Act workers engaged in ginning cotton for market at any location in a county where cotton is grown in commercial quantities. p. 5887

Rejected the following amendments:

By Sen. Goldwater, 39 to 55, to require the imposition of quotas, tariffs, etc., when the Secretary of Labor investigates and reports to the President that foreign competition has resulted or may result in unemployment in the U. S. pp. 5849-57

By Sen. Monroney, 39 to 56, to reduce the number of additional employees to be covered under the Act. pp. 5857-71

By Sen. Morse to exempt from the Act workers engaged in lumbering or forestry operations of a business controlled by an enterprise engaged in the production of pulp, paper, or other wood products or is owned by the U. S., State, or local government. pp. 5879-82

By Sen. Holland to provide that the Secretary of Labor shall have no power, except as expressly provided by law, to regulate the wages and hours of employment of workers employed in agriculture. pp. 5883-7

2. SURPLUS COMMODITIES; FOREIGN TRADE. The Agriculture and Forestry Committee voted to report (but did not actually report) without amendment S. 1027, to amend Public Law 480 so as to provide an additional authorization of \$2 billion during 1961 under title I for sales of surplus commodities for foreign currencies. p. D259
3. NOMINATIONS. The Agriculture and Forestry Committee reported the nomination of Howard Bertsch to be Administrator of the Farmers Home Administration, and the nominations of Julian B. Thayer and Joe B. Zeug to be members of the Federal Farm Credit Board, Farm Credit Administration. p. 5833
4. ACREAGE ALLOTMENTS. The Agriculture and Forestry Committee reported with amendment S. 1372, to authorize the temporary release and reapportionment of pooled acreage allotments (S. Rept. 172) (p. 5836). The committee voted to report the bill earlier in the day (p. D259).
5. TEXTILES. Received from the Commerce Committee a report, "Problems of the Domestic Textile Industry" (S. Rept. 173). p. 5836
6. FARM LABOR. Sen. Williams, N. J., discussed the current hearings on problems of migratory labor and inserted several items on the matter. pp. 5901-3

HOUSE

7. FARM BILL. Rep. Cooley announced that the Agriculture Committee will open hearings on Monday, April 24, on the administration's farm bill, H. R. 6400, with Secretary Freeman the first witness. He stated that the first phase of the hearings will be limited to title I of the bill, and later hearings will deal with Public Law 480, agricultural credit, and the special milk program. He urged enactment of this bill at the earliest possible date. pp. 5939-40
8. LANDS. The Interior and Insular Affairs Committee voted to report (but did not actually report) H. R. 5416, to include within the boundaries of Joshua Tree National Monument, in the State of California, certain Federally owned lands used in connection with the monument. p. D261
9. VEHICLES. The Judiciary Committee voted to report (but did not actually report) H. R. 2883, to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment. p. D261

"England, Red China, and the U.N." In this article General Hittle discusses some very pertinent background factors relating to England's Far Eastern interests which in turn could provide motivation for the recent statement of England's Foreign Secretary, Lord Home, advocating the admission of Red China to the U.N. because such action, he said, is required by the facts of international life.

Those who refuse to accept such a thesis as that set forth by Lord Home will be encouraged by the analysis in General Hittle's article in the V.F.W. publication as to the fallacy of the British position. This article deserves the thoughtful attention of every citizen. It is another example of the constructive manner in which the Veterans of Foreign Wars are demonstrating their leadership in helping keep our Nation alert and strong.

I hope that all Members of the Senate will give the article their thoughtful attention. I ask unanimous consent that this article from the V.F.W. American Security Reporter be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ENGLAND, RED CHINA, AND THE U.N.

(By Brig. Gen. J. D. Hittle, USMC (retired))

When Britain's Foreign Secretary, the Earl of Home, recently stated that the facts of international life require the entry of Red China into the United Nations, a disruptive factor was injected into British-United States relations. Supporters of a policy of resolute opposition to communism were encouraged by the quick reaction of the Kennedy administration. On the day following Lord Home's blunt advocacy of Communist China's admission to the U.N. a spokesman for the U.S. Department of State expressed official exception to the British view.

While Great Britain historically has followed a relatively soft line toward Chinese communism, this latest support of Red China's admittance raises an interesting question as to its timing. Obviously, more than just admission of Red China to the U.N. is involved.

Perhaps one of the leading facts of international life which inspired Lord Home's statement to the House of Commons concerns Hong Kong and the fact that England's lease to the new territories portion of that fabulously wealthy crown colony is approaching the time when Red China will be talking about terminating the lease and England will be seeking renewal. The 99-year lease by which England holds this portion of the colony was obtained from China in 1898. Thus the lease has 36 years to run. This is a very short time in terms of national policy and the tremendous British capital investments which continue to be made in Hong Kong. Consequently, the British attitude may be described as "be kind to the landlord." Unfortunately, the landlord in this instance is a bandit nation intent on the ultimate destruction of the tenant.

United States—and much of the free world's—opposition to Red China's admission to the United Nations is not based upon so-called facts of life, but rather upon demonstrative and haunting facts of death—death of religious tolerance and dignity of the individual in China; death of peace in the Asian world; death of the independence of Tibet; death of thousands of U.S. soldiers, sailors, marines, and airmen in resisting Red China's aggression in Korea; death and tor-

ture of U.S. citizens in Red China's prisons; and death—wherever Red Chinese influence exists—of man's hope for international morality and peace.

The case against Red China's recognition by the United States and admission to the United Nations is based upon a very simple, but inescapable principle: Evil, immorality, and tyranny are not legitimized by being king sized.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and for other employers engaged in commerce or in production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. MANSFIELD. Mr. President, I call for the regular order.

Mr. GOLDWATER. Mr. President, I believe that under the unanimous-consent agreement last evening I have the right to the floor so that I may complete presentation of my amendment.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Am I correct in stating that the Senator from Arizona had used the 30 minutes allotted on his amendment, but that additional time will be granted as the result of an understanding last evening?

The PRESIDING OFFICER. The Senator is correct. The time is allowed by Senators who control the time on the bill.

Mr. HUMPHREY. How much additional time does the Senator from Arizona wish?

Mr. GOLDWATER. The understanding with the majority leader last evening was that the Senator from Arizona would be allowed at least 10 minutes.

Mr. HUMPHREY. I believe we can start with at least 10 minutes, and then perhaps grant a little more.

Mr. GOLDWATER. Knowing the generosity of my friend from Minnesota, a little more could mean much more, and I assure him that I do not need a great deal more time.

Mr. HUMPHREY. I thank the Senator for any consideration that he will give. I yield 10 minutes on the bill.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Must the 10 minutes come out of any controlled time, since the majority leader allowed the time to me last evening?

Mr. MANSFIELD. The time must come from the time on the bill.

The PRESIDING OFFICER. The Chair understands that the time must come from the time allowed on the bill under the unanimous-consent agreement.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. How much time remains on the bill?

The PRESIDING OFFICER. On the bill the proponents have 78 minutes remaining and the opponents have 66 minutes remaining.

Mr. GOLDWATER. I thank the Chair.

Mr. HUMPHREY. I yield 10 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, last evening I did not complete the presentation I was making from the records of the past. In order that there may be some continuity in the permanent RECORD, I ask unanimous consent that the entire legislative history to which I was referring, including the appendices, be made a part of the permanent RECORD of the CONGRESSIONAL RECORD of yesterday, April 18.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the legislative history to which I referred, including the appendices, be printed at this point in my remarks for the RECORD of today.

There being no objection, the legislative history and appendices were ordered to be printed in the RECORD, as follows:

The National Industrial Recovery Act of 1933 provided for the establishment of codes of fair competition under which domestic producers were obliged to limit the hours of labor, pay a minimum wage, and sell their products at a fixed price not incompatible with the public interest. This bill was handled in the Senate by the Senate Finance Committee. In reporting the bill which became the law, the committee added a provision (sec. 3(e)) to the effect that:

"Upon complaint to the President that articles are being imported into the United States to the detriment of any industry with respect to which a code of fair competition is in effect, resulting in unfair methods of competition in the United States, the President may cause an investigation to be made. If after public notice and hearing the existence of unfair methods of competition shall be found, the President may exclude the articles concerned from entry into the United States, and the decision of the President is to be conclusive. The refusal of entry is to continue until the President finds that the conditions which led to the refusal no longer exist." (S. Rept. 114, p. 2, 1933.)

During the debate on the bill in the Senate, Senator Walsh, of Massachusetts, offered a substitute for the committee amendment. This was accepted by the Senate and became section 3(e) of the bill which was enacted into law. In lieu of the power of the President to exclude entirely articles which he found to be imported to the detriment of an industry subject to a code of fair competition, the Walsh amendment empowered the President to permit entry of the offending imports into the United States "only upon such terms and conditions and subject to the payment of such fees and to such limitations in the total quantity which may be imported (in the course of any specified period or periods) as he shall find it necessary to prescribe in order that the entry thereof shall not render or tend to render ineffective any code or agreement made under (the act)."

In lieu of investigation by the President, the Walsh amendment provided for an immediate investigation to be made by the Tariff Commission on complaint of a labor organization or trade association.

In explaining the purpose of his amendment to the Senate, Senator Walsh stated:

"Mr. President, the committee amendment was originally proposed by the Senator from Pennsylvania, Mr. Reed. The committee felt that the effectiveness of the measure would be greatly restricted, if not destroyed, unless there were some provision giving the President authority to restrict imports that would be in competition with the domestic producers who were obliged to comply with codes fixing limited hours of labor, with a minimum wage, and sell their products at a fixed price not incompatible with the public interest. The proposal of the Senator from Pennsylvania gave the President the power of embargo. He could declare that particular imports were tending to destroy the effectiveness of the measure and prevent their being imported into the country.

"The substitute which I have proposed has been submitted to the Senator from Pennsylvania and meets with his approval. It has been submitted to the Senator in charge of the bill, Mr. Harrison. We all believe that it is preferable to the committee amendment. It retains the power for the President to embargo when necessary, but also gives him, which he does not possess under the committee amendment, the power to impose limitations upon the amount of imports that may be permitted to enter the country, and also gives him the power to compel importers, where imports are restricted, to take out a license, so that he can prevent their violating his regulations.

"So far as I understand, everyone interested in this particular phase of this bill is in accord; and I assume the amendment will be adopted." (CONGRESSIONAL RECORD p. 5291, June 8, 1933.)

During the debate, Senator Reed of Missouri, commented that "the whole effect of (the) bill is going to be to raise American costs and American prices." He explained his support for the bill in view of this fact as follows:

"We cannot compel the foreigner to unionize his labor. We cannot compel the foreigner to pay minimum rates of wages. We cannot compel the foreigner to cut down his workday to 30 hours a week. We cannot compel him to join a code of fair competition. The effect of the bill, without some such protection as this, would be to hand over to the foreigner the entire American market.

"Therefore, I am very glad that the Senator from Massachusetts is offering an amendment that will go as far as we constitutionally can go." (CONGRESSIONAL RECORD p. 5292, June 8, 1933.)

There was very little adverse comment in the Senate about the import provision of the bill or the Walsh amendment. Senator Gore was the chief critic, and in response to an inquiry by him as to whether the President should not be authorized to reduce duties as well as to raise them, Senator Walsh replied as follows:

"The amendment proposed by me is simply to make effective the purpose of title I of this act. It is inconceivable that hours of labor can be reduced, and wages fixed, and prices of commodities established by a governmental agency and no power given to the same agency to prevent a flood of imports into this country. Without such an amendment, the whole act would be ineffective.

"How is it possible to reduce working hours, increase wages, put more people to work, and fix the prices of commodities so that wages will be higher, without some restriction or some control over the importations into this country that are to compete with labor and wages that are regulated un-

der this bill? The purpose of the amendment is to give the President the same authority over these imports that he is assuming over domestic production and products." (CONGRESSIONAL RECORD p. 5292, June 8, 1933.)

When the bill went to conference the House receded, accepting the Senate amendment.

The Fair Labor Standards Act as it was originally conceived by both the Senate and House committees which handled the legislation included as an essential part measures for adjusting imports by additional duties or quotas so that the sale in the United States of goods produced abroad under the type of labor conditions forbidden by the act would not defeat the purposes of the act.

As reported by the House Labor Committee, H. Rept. 1452 (corrected print), 75th Congress, 1st session, the Fair Labor Standards bill contained a provision for the regulation of imports produced under substandard labor conditions whose sale in the United States would tend to defeat the purposes of the act. The text of provision is set forth in appendix I to this memorandum. Concerning this provision, the House report stated:

"Sections 8 (c) and (d) are new tariff provisions proposed as a committee amendment. These provisions authorize the President, after investigation by the Tariff Commission, and upon the recommendation of the Commission, to make such increases in the duty, or to impose such limitations on the quantity permitted entry (or entry without duty increase), as may be necessary in order to equalize differences in the costs of production of any domestic article and of any like or similar foreign article resulting from the operation of the Labor Standards Act and in order to maintain the standards established pursuant to the act. In case of any article on the free list of the Tariff Act of 1930, possible action is limited to import quotas.

"The provisions are so drawn that remedial action is possible with respect to any item, whether or not it is included in any trade agreement, present or future. With respect to a trade agreement item, however, possible action is limited to import quotas, since any increase in the duty on such an item would be in violation of the trade agreement. Section 8(d) contains the specific provision that 'Nothing in this section shall be construed as permitting action in violation of any international obligations of the United States.' Section 8(d) further provides in the case of quotas that the quantities permitted entry, or entry without an increase in duty, shall be allocated to the supplying countries on the basis of the proportion of imports from each such country in a previous representative period. This provision is designed to assure against the discriminatory allocation of such quotas contrary to the letter and spirit of our existing international obligations and policies."

This tariff provision was consistent with the purpose of the legislation. As stated in the President's message recommending the enactment of fair labor standards legislation (H. Doc. 255, 75th Cong., 1st sess.):

"And so to protect the fundamental interests of free labor and a free people we propose that only goods which have been produced under conditions which meet the minimum standards of free labor shall be admitted to interstate commerce. Goods produced under conditions which do not meet rudimentary standards of decency should be regarded as contraband and ought not to be allowed to pollute the channels of interstate trade."

The bill was reported by the House Labor Committee August 6, 1937, and contained 30 amendments which had been added by the committee to the form of the bill as originally introduced. The Rules Committee

failing to grant a rule, a petition to discharge the bill from the Rules Committee was filed on December 6, 1937, and debated in the House on December 13 and 14, 1937. Three days after the House committee had reported the bill, William Green, president of the American Federation of Labor, wrote to all Members of Congress as follows (82 CONGRESSIONAL RECORD 1485):

"I sincerely hope you may find it possible to vote for the enactment of the wage and hour bill without any substantial change in the form and character in which it is reported to the House."

During the debate on the committee bill in the House, Congressman McLean of New Jersey commented on the import adjusting provision of the committee bill as follows (82 CONGRESSIONAL RECORD 1492, Dec. 14, 1937):

"If a manufacturer determines to produce an article for which there is a demand, his first thought is to produce it at a price people are willing to pay. His cost of production depends on the cost of raw materials, the cost of labor, and what we ordinarily know as overhead, being the interest on his investment in his plant, insurance, taxes of several sorts, and selling cost. If the price he can obtain for his article will cover these items and give him a reasonable profit, his efforts will be successful. Therefore, if you would fix the price he must pay for his labor, you must guarantee to him, and the consumer must be compelled to pay, a price which will guarantee a sufficient return to pay the compulsory wages. But that is where the scheme breaks down. While you may inflict penalties on the manufacturer, you cannot make a criminal out of a consumer because he does not buy the things you think he should at a price you require he should pay.

"Anticipating this situation, the pending bill attempts to meet it by providing for the Administrator to make adjustments of wage levels, and, as to foreign-made goods, by giving the U.S. Tariff Commission the power to adjust import duties on foreign articles which compete with domestic articles resulting from the operation of this act."

During the debate in the House on December 14, 1937, Congressman Cooper objected to the tariff provision in the committee bill on the ground that acceptance of the bill by the House would be tantamount to writing a tariff bill, which would violate the jurisdiction of the Ways and Means Committee (82 CONGRESSIONAL RECORD 1578). This point of order was sustained (82 CONGRESSIONAL RECORD 1580).

Thereupon Mrs. Morton offered as an amendment the provisions of a clean bill which included an import adjusting provision, the text of which is attached to this memorandum as appendix 2 (82 CONGRESSIONAL RECORD 1583).

Subsequently Congressman Hartley moved to recommit the bill. This motion was sustained by a vote of 216 to 198.

During the 3d session of the 75th Congress a revised fair labor standards bill was reported to the House. During the debate on the bill it was stated that the revised bill had been drafted in the Department of Labor and had not been considered or discussed more than one hour by the full House Labor Committee before being reported (83 CONGRESSIONAL RECORD 7295, May 23, 1938). This bill contained no tariff provision.

During the debate in the House on the revised minimum wage bill, a tariff provision was offered as an amendment by Congressman McLean (83 CONGRESSIONAL RECORD 7436, May 24, 1938). The text of this tariff provision is attached to this memorandum as appendix 3. This provision was identical with section 3(e) of the National Industrial Recovery Act. Congressman McLean made the following remarks in sup-

port of his amendment (83 CONGRESSIONAL RECORD 7437):

"The amendment is pertinent and germane to the pending bill because it protects those who may be compelled to increase the cost of production against importations from countries where such costs are lower, where wage and hour statutes do not exist, and where living standards do not approach our own.

"Prosperity affects employer and employees alike. If an employer has work to do, he will employ men to do it, and the more work he has the more men he employs, and the more men employed the greater the demand and the fewer men available, and the price of labor goes up. This will not come about so long as we consume goods manufactured under conditions inferior to our own.

"The American workingman now enjoys the privilege of negotiating with his employer as to the value of his services and the conditions under which he will work. He is the master of his own destiny.

"If the bill has any value whatever, it must be as a part of an economic scheme which takes into consideration all the elements which order our lives. The law of supply and demand still exists.

"The enactment of this legislation in its present form will increase production costs and thereby reduce tariff rates. It will invite the world to dump on our markets merchandise produced by sweatshop methods and child labor—conditions we are endeavoring to eliminate."

Congressman Healey, of Massachusetts, raised a point of order in regard to this amendment on the ground that it was not germane to the main bill. This point of order was sustained by the Chair, the occupant referring to the reason given under the point of order which was sustained to the comparable provision of the committee bill during the 2d session of the 75th Congress (83 CONGRESSIONAL RECORD 7437).

Prior to the action in the House, a Senate version of the fair labor standards bill received consideration in that body. The Senate Committee on Education and Labor reported the fair labor standards bill with an amendment incorporating an import provision authorizing the Tariff Commission to investigate the differences resulting from the operation of the Fair Labor Standards Act on the cost of production of a domestic article and of the like foreign article with a view of determining whether an increase in the duty on the foreign article should be made. The text of this section of the Senate committee bill is attached to this memorandum as appendix 4. Pertinent excerpts from the Senate committee report are as follows (S. Rept. 884, 75th Cong., 1st sess.):

"The committee believes that a start should be made at the present session of the Congress to protect this Nation from the evils and dangers resulting from wages too low to buy the bare necessities of life and from long hours of work injurious to health. This law proposes to accomplish this purpose by closing the channels of interstate commerce to goods produced under conditions which do not meet the rudimentary standards of a civilized democracy" (p. 4).

"Section 8 also authorizes the Tariff Commission under stated circumstances to investigate differences resulting from the operation of the act in the cost of production of any domestic article and any like foreign article with a view to determining whether an increase in the duty; upon the foreign article should be made" (p. 8).

During the debate in the Senate, Senator Lodge, of Massachusetts, offered an amendment as a new subsection to the import provision of the fair labor standards bill

(81 CONGRESSIONAL RECORD 7742, July 28, 1937). The text of the Lodge amendment is attached as appendix 5. Senator Lodge explained the necessity for his amendment by stating that the experience of the Tariff Commission under section 336 of the Tariff Act of 1930 (essentially the basis of the import provision of the Senate committee's fair labor standards bill) had shown the provision to be unsatisfactory because of its time-consuming nature, the unavailability of foreign costs, and the often misleading nature of invoice prices. He also referred to the experience of the NRA with the import adjusting provisions of the National Industrial Recovery Act in which of 276 complaints filed, 220 had been dismissed because of insufficient data or as unwarranted. Senator Lodge then stated (81 CONGRESSIONAL RECORD 7745):

"We have read in newspapers about the situation; every now and then we read stories about little girls 14 or 15 years old working at night in the textile mills of Japan for a few cents an hour. The choice confronting us is perfectly obvious. Either we can reduce American wages to conform to such a level * * * or else we can use the great power of the U.S. Government to enact a law which will stop that kind of thing. That is what I favor and that is what I am advocating in offering the amendment.

"We cannot go in two directions at once. At the present time through one agency of the Government attempts are being made to eliminate tariff barriers, and through other governmental activities attempts are being made * * * to raise wages and raise the American standard of living. We cannot do both. We have to choose the path which we want America's destiny to follow. In my judgment, the amendment which I have offered is indispensable to the success of the bill and the achievement of the ends which the bill seeks to attain."

Senator Black, the sponsor of the Senate version of the fair labor standards bill, opposed the Lodge amendment and in his remarks pointed out that—

"Under [the] flexible tariff provision, upon a hearing before the Tariff Commission and a report by the Tariff Commission, the proper action can be taken by the President of the United States." (81 CONGRESSIONAL RECORD 7747, July 28, 1937.)

The Lodge amendment was defeated.

It was pointed out in the Senate debate that the flexible tariff provision had been added to the Senate bill in committee by Senator ELLENDER of Louisiana. During the debate, Senator ELLENDER commented on the import provision of the committee bill as follows (81 CONGRESSIONAL RECORD 7925, July 31, 1937):

"Mr. President, the Committee on Education and Labor, of which I am privileged to be a member, was ever mindful to protect the right of American labor from foreign competition. During our hearings the question was discussed many times, and the committee concluded that the most feasible way to afford protection was by the tariff method. The committee thought it more desirable to incorporate in the pending bill the prevailing method of raising tariffs. Any party may cause the Tariff Commission to investigate the difference resulting from the operation of this act in the cost of production of any domestic article and any like or similar foreign article, with a view to determining whether or not an increase should be made in the duty upon such foreign article, for the purpose of equalizing such differences. Should the Commission conclude that an increase in the present rate should be made, the President by proclamation could increase them, as is now provided under section 336 of the Tariff Act of 1930, as amended. Such a method could be carried out without any interference on

our part in the affairs of our foreign neighbors and one that has been invoked in the past in order to afford protection for our workers."

The Senate passed the committee bill containing the Ellender import provision.

The Fair Labor Standards Act became law on June 25, 1938. The outbreak of the war in Europe in 1939, the stepped-up industrial activity of the United States incident to its role as the arsenal of democracy in 1940 and 1941, and the disruption of normal foreign commerce during World War II, all served to obscure the effect of the import loophole on the effectiveness of the Fair Labor Standards Act.

A combination of factors subsequent to World War II paved the way for the major impact which foreign competition is now having on American workers and industries and the objectives of the Fair Labor Standards Act. The first of these factors is the expenditure of billions of dollars by the United States in the form of foreign grants and loans to reconstruct the industrial economy of Europe and Asia. This process was completed by 1956-57. During this period the unusual demand for manufactured materials and the shortage of raw materials occasioned by the Korean emergency served to postpone the time when the import policy loophole in the Fair Labor Standards Act would become painfully evident.

The second major factor contributing to this result during the postwar period is composed of the extensive and deep reductions in U.S. tariffs granted by the United States in the multilateral tariff negotiations under GATT in 1947, 1950, 1951, and 1955. Whereas prior to World War II the limited use of the trade agreements authority had left the majority of U.S. tariffs at adequate levels as a compensating factor for the substandard labor conditions existing in the foreign industries supplying the bulk of U.S. imports of manufactured goods, this equalizing factor had been effectively destroyed by the cumulative effect of the GATT reductions which brought the ad valorem equivalent of U.S. tariffs from approximately 50 percent prior to World War II to 12 percent on dutiable goods and 6 percent overall at the present time.

Today, from the modern technologically up-to-date factories in Europe and Asia, an enormous flood of manufactured goods is entering the United States under the unfair competitive advantage of low labor costs made possible by the existence of labor conditions in the countries of origin far below the minimum conditions imposed on U.S. manufacturers by the Fair Labor Standards Act.

It is now evident that the public policy expressed in the Fair Labor Standards Act of protecting the general well-being of American workers by preventing goods from entering the commerce of the United States with an unfair labor advantage based upon substandard labor conditions is being thwarted by the absence of any import-regulating feature in our laws designed to remove or equalize such advantages.

This loophole can be effectively closed by import-adjusting provisions which use the public policy of the Fair Labor Standards Act as the basic guide for the imposition of additional duties or import quotas. A modification of a bill introduced by Senator KEATING for himself and eight other Senators (S. 2882) seems ideal for this purpose. An alternate form of the bill which does not expressly amend the Fair Labor Standards Act is attached following appendix 5. Should it be necessary for the bill as a tariff measure to be considered initially by a committee other than the House Education and Labor Committee, the alternate form of the bill may be preferred.

APPENDIX 1

Text of House Labor Committee amendment re imports (H. Rept. 1452, 75th Cong., 1st sess., p. 4):

"The U.S. Tariff Commission upon request of the President or upon resolution of either or both Houses of Congress or if imports are substantial and increasing in ratio to domestic production and if in the judgment of the Commission there is good and sufficient reason therefor, then, upon its own motion or upon the request of the Board or upon application of any interested party, shall investigate the differences in the cost of production of any domestic article and of any like or similar foreign article resulting from the operation of this act, and shall recommend to the President such an increase (within the limits of section 336 of the Tariff Act of 1930) in the duty upon imports of the said foreign article, or such a limitation in the total quantity permitted entry, or entry without increase in duty, as it may find necessary to equalize the said differences in cost and to maintain the standards established pursuant to this act. In the case of an article on the free list in the Tariff Act of 1930, it shall recommend, if required for the purposes of this section, a limitation on the total quantity permitted entry. The President shall by proclamation approve and cause to be put into effect the recommendations of the Commission if, in his judgment, they are warranted by the facts ascertained in the Commission's investigation.

"(d) All provisions of title III, part II, of the Tariff Act of 1930, applicable with respect to investigations, reports, and proclamations under section 336 of the said Tariff Act, shall, insofar as they are not inconsistent with this section, be applicable with respect to investigations under this section. Nothing in this section shall be construed as permitting action in violation of any international obligation of the United States. In recommending any limitation of the quantity permitted entry, or entry without an increase in duty, the Commission, if it finds it necessary to enforce such limitations or to carry out any of the provisions of this section, shall recommend that the foreign article concerned be forbidden entry except under license from the Secretary of the Treasury and that the quantity permitted entry, or entry without an increase in duty, shall be allocated among the different supplying countries on the basis of the proportion of imports from each country in a previous representative period. Any proclamation under this section may be modified or terminated by the President whenever he approves findings submitted to him by the Commission that conditions require the modification recommended by the Commission to carry out the purposes of this section or that the conditions requiring the proclamation no longer exist."

APPENDIX 2

Text of tariff provision in committee-sponsored clean bill offered as an amendment during House debate on the Fair Labor Standards Act (82 CONGRESSIONAL RECORD 1583):

"(c) The U.S. Tariff Commission (1) upon request of the President, or (2) upon resolution of either or both Houses of Congress, or (3) upon request of the Administrator, or (4) upon its own motion, or (5) when in the judgment of the Commission there is good and sufficient reason therefor, upon application of any interested party, shall investigate the differences resulting from the operation of this act in the costs of production of any domestic article and of any like or similar foreign article, with a view to determining whether or not an increase should be made in the duty upon such foreign article for the purpose of equalizing such differences.

"(d) All provisions of law applicable with respect to investigations under section 336 of the Tariff Act of 1930, as amended, including the provisions applicable to reports of the Commission and proclamations by the President shall, insofar as they are not inconsistent with this section, be applicable in like manner with respect to investigations under this section. Nothing in subsection (c) or (d) of this section shall be construed as authorizing action in violation of any international obligation of the United States."

APPENDIX 3

Tariff provision offered as amendment by Mr. McLean (83 CONGRESSIONAL RECORD 7436, May 24, 1938):

"Sec. 6(a). On his own, or if any labor organization, or any trade or industrial organization, association, or group, which has complied with the provisions of this Act, shall make complaint to the President that any article or articles are being imported into the United States in substantial quantities or increasing ratio to domestic production of any competitive article or articles and on such terms or under such conditions as to render ineffective or seriously to endanger the maintenance of the provisions of this Act, the President may cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigation under this subsection, and if, after such investigation and such public notice and hearing as he shall specify, the President shall find the existence of such facts, he shall, in order to effectuate the policy of this Act, direct that the article or articles concerned shall be permitted entry into the United States only upon such terms and conditions and subject to the payment of such fees and to such limitations in the total quantity which may be imported (in the course of any special period or periods) as he shall find necessary to prescribe in order that the entry thereof shall not render or tend to render ineffective any provision of this Act.

"In order to enforce any limitations imposed on the total quantity of imports, in any specified period or periods, or any article or articles under this subsection, the President may forbid the importation of such article or articles unless the importer shall have first obtained from the Secretary of the Treasury a license pursuant to such regulations as the President may prescribe. Upon information of any action by the President under this subsection the Secretary of the Treasury shall, through the proper officers, permit entry of the article or articles specified only upon such terms and conditions and subject to such fees, to such limitations in the quantity which may be imported, and to such requirements of license as the President shall have directed. The decision of the President as to facts shall be conclusive. Any condition, or limitation of entry under this subsection shall continue in effect until the President shall find and inform the Secretary of the Treasury that the conditions which led to the imposition of such conditions or limitations upon entry no longer exists."

APPENDIX 4

Text of tariff provision in Senate committee bill (81 CONGRESSIONAL RECORD 7921):

"SEC. 8 (a) * * *.

"(b) * * *.

"(c) The U.S. Tariff Commission (1) upon request of the President, or (2) upon resolution of either or both Houses of Congress, or (3) upon request of the Board, or (4) upon its own motion, or (5) when in the judgment of the Commission there is good and sufficient reason therefor, upon application of any interested party, shall investigate the differences resulting from the op-

eration of this act in the costs of production of any domestic article and of any like or similar foreign article, with a view to determining whether or not an increase should be made in the duty upon such foreign article for the purpose of equalizing such differences.

"(d) All provisions of law applicable with respect to investigations under section 336 of the Tariff Act of 1930, as amended, including the provisions applicable to reports of the Commission and proclamations by the President, shall, insofar as they are not inconsistent with this section, be applicable in like manner with respect to investigations under this section."

APPENDIX 5

Amendment offered by Senator Lodge for addition to the tariff provision in the Senate committee bill (81 CONGRESSIONAL RECORD 7742):

"(e) The U.S. Tariff Commission is authorized and directed (1) to compute for each foreign country the average annual volume of each class of goods which were produced, manufactured, mined, handled, or in any other manner worked on in such country and which were imported into the United States during the 5-year period immediately preceding the date of enactment of this act, and (2) to certify to the Secretary of the Treasury the computations so made. Thereafter no goods of any class shall be allowed to be imported into the United States from any foreign country during any calendar year in excess of the average annual volume of that class of goods so computed and certified by the Commission unless it is shown to the satisfaction of the Labor Standards Board that the labor standards in such country which are applicable to the class of goods to which such computation applies are at least equal to the labor standards under which like or similar goods of that class are produced in the United States. The Commission and the Secretary of the Treasury are authorized, respectively, to make such rules and regulations."

Mr. GOLDWATER. Mr. President, in order that Senators who were not present yesterday evening may know to what my amendment pertains, I shall give the explanation that I gave last night because I see some of my friends present who have industrial troubles in their States from foreign competition.

The committee bill contains a provision authorizing the Secretary of Labor, when he has reason to believe that foreign competition has resulted or may result in unemployment in the United States, to make an investigation of the matter, and if he determines that such unemployment has resulted or may result, to report his findings to the President and Congress.

Merely to make such findings and to report them to the President is not a guarantee of action. The Tariff Commission is today charged with the responsibility of performing this same type of investigation, including hearing interested and affected parties, and making a recommendation to the President. The investigation usually stops at that point.

My amendment is substantially the same as the committee bill up to that point, but it then goes further. It provides that the Secretary of Labor shall report his findings and recommendations to the President, and then the President may by proclamation make effective the Secretary's recommendations, and the Secretary of the Treasury

will then carry through on the necessary quotas, tariffs, et cetera, to bring about the desired result.

I believe the committee bill makes an approach to the problem, but it is a very weak approach that would not bring relief to the affected areas. I am thinking particularly of the dilemma in which the textile industry in this country finds itself today. Three hundred thousand workers in that industry are out of work as a result of foreign competition. I wish to repeat to my friends, as I reminded them before, that one out of eight persons employed in industry in this country is employed in textiles or related industries.

Mr. COTTON. Mr. President, will the Senator yield for 10 seconds?

Mr. GOLDWATER. I am happy to yield.

Mr. COTTON. I commend the Senator from Arizona for offering his amendment. As the Senator knows, under the leadership of the able Senator from Rhode Island [Mr. PASTORE], the Senator from New Hampshire served and is serving on a special committee dealing with the textile situation.

During the last two Congresses we have been fighting desperately to save our textile jobs. We have run up against a blank wall. I believe that the amendment of the Senator from Arizona is needed. It offers affirmative relief to the hard-pressed textile industry. I recall that only a few days ago in this Chamber Senator after Senator rose and spoke eloquently and pointedly about the textile problem.

I earnestly hope that the Senator from Arizona will obtain a rollcall vote on his amendment. I shall support him.

Mr. GOLDWATER. I certainly appreciate the offer of help from the Senator from New Hampshire. He knows full well the impact of foreign products on the textile industry of this country. It is not only in the textile field that we find this difficulty. We are finding it also with respect to automobiles, steel, and many of our basic industries where we never believed a few years ago that the foreign markets would ever compete with American industry. Yet as we continue in Congress and in the different administrations—and I am not putting the blame on any one administration—in effect to tinker with the natural operation of our economic system, we will be faced with more and more necessity for legislating to protect our industries. As we unnaturally raise wages, we unnaturally raise costs. One result is increased prices. As we bring about increased prices, we open the door wider and wider to foreign competition.

I might call the attention of Senators to an action that was taken recently which will affect the textile industry. Surplus cotton is being sold in foreign markets at eight and a half cents below the domestic market price. It was 6 cents last year. This will add to the difficulties the textile industry is experiencing.

Mr. President, American labor is not blind to all of this. I am surprised that the labor movement has not more openly

insisted on an amendment such as I am offering, which has some real meaning to it. Perhaps if someone else offered it, it might be better received. However, I believe that statements by labor leaders indicate they know of the problem and are anxious to have something done about it.

For instance, Mr. Arnold Beichman, editor of the *Electrical Union World*, published by the International Brotherhood of Electrical Workers, in a statement published in the *Industrial Bulletin* of the New York State Department of Labor has this to say:

American labor has put the world's free trade unions on notice that international trade competition based on low wages must be controlled.

This statement comes from one of the leaders of labor in an industry which is being drastically affected by foreign competition, namely, the electrical and electronic industry.

I ask unanimous consent that the entire article written by Mr. Arnold Beichman be printed in the *RECORD* at this point.

There being no objection, the article was ordered to be printed in the *RECORD*, as follows:

[From the *Industrial Bulletin*,
December 1960]

LABOR CONCERNED OVER IMPORTS FROM
ABROAD—U.S. LABOR OFFICIALS SEEK FAIR
STANDARDS FOR INTERNATIONAL TRADE

(By Arnold Beichman)

American labor has put the world's free trade unions on notice that international trade competition based on low wages must be controlled. If not, a spirit of economic isolationism, in the form of high tariffs and import quotas, may gain support in the United States with the aim of banning from our domestic market goods which today threaten the jobs of millions of American workers, including thousands in New York State.

This message was presented by American labor spokesmen at a recent meeting of the International Confederation of Free Trade Unions, which include the labor organizations of Europe, Australia, Asia, Africa, and North and South America.

Since World War II, foreign labor leaders were told by Walter P. Reuther, president of the United Auto Workers, American labor has supported freer international trade as one way of strengthening the free world.

"But we must understand," he said, "that good will and noble sentiments are an inadequate answer to a worker losing his job because another worker is making the same product with the same tools, but getting half the wage of the American worker."

"Pressure is building up in America which will lead to economic isolationism and be a blow to the free world. If we don't solve this problem, it will not be possible to tell the American worker much longer, 'You can't protect yourself.' Economic isolationism may become necessary as a matter of survival and that would fragmentize the free world's economy, and the free world can't survive that way."

The UAW leader pointed out that the same technology is being used by industrial countries throughout the world in manufacturing the same products. For example, an auto plant in Germany making the Volkswagen uses the same tools, machinery and techniques used by a General Motors or Chrysler parts plant in New York State.

"If the foreign worker getting one-tenth of the American worker's wages," said Mr.

Reuther, "were using an undeveloped, primitive technology, the wage differential wouldn't be serious. But the technology today is identical in France, Germany, Italy, Britain, Japan, or Canada. The technology is universal but the wages are different, yet they are all competing for the same market."

This situation is particularly notable in the transistor radio industry, where the American worker's wages and benefits are anywhere from 3 to 10 times greater than the wages of workers in Japan, where also more than 120 million pieces of flatware are produced to compete with similar American-made products. (New York State has several communities whose economy depends upon the production of these items.) The AFL-CIO official pointed out that merely raising tariff walls wouldn't change the situation very much because of a 10-percent penalty were imposed, for example, on imported transistor sets, wages in the exporting country would be cut 10 percent.

"Nobody can win a negative contest," he said, "based on who can depress wages the most."

The first step which foreign industry must take—and particularly in Japan—is "to meet its basic social obligation to its workers," namely to raise wages so as to reduce the incredible disparity between Japanese and American wage levels. If foreign industrialists refuse to raise wages, only then would high tariff penalties be placed on exports.

"We know that as a practical matter," said Mr. Reuther, "we can't equalize wages in all areas of the world, but we can minimize the differential so that we can live with them."

This conflict threatens to grow more acute as more and more countries, former colonies of European nations, win their independence and begin to industrialize. Each of these countries must obtain foreign aid, in the form of financial and technical loans and support, for survival in the 20th century. Their products must find foreign outlets in order to establish credits to purchase essential materials to be used in expanding manufactures.

Labor leaders from foreign countries argue that wages in their countries will remain low, as compared to wages in the United States, so long as industrialized countries pay low prices for imports of primary commodities—tin, copper, copra, sisal, coffee, tea, for example—which for some countries in Asia represent their major hard-currency earner. If countries like Britain, the United States or Germany, which import these primary commodities, would pay higher prices for them, it would make wage increases possible, they argue.

There is another wage depressant, said an Indian labor official. That is the necessity for underdeveloped countries to devote a higher proportion of their gross national output to reinvestment. Whereas in already industrialized countries like the United States, a large part of gross national product can go to paying high wages, in those countries just beginning to industrialize and under internal pressure to achieve industrialization in a few years, raising wages to U.S. levels would mean retardation of industrialization.

A Swedish labor leader pointed to the illogicality of lading out huge amounts of financial aid to underdeveloped countries to industrialize and then when they begin to manufacture exports for world markets to establish trade restrictions blocking their entry into these markets.

This is the debate which world labor is now engaged in and it resembles the old problem of the immovable object meeting the irresistible force. The ICFTU has undertaken to establish a formula for international fair labor standards for inclusion in some kind of an international agreement.

The first ICFTU suggestion is that the General Agreement on Tariffs and Trade (GATT) and the International Labor Organization (ILO) together examine the question of fair labor standards, a highly technical, complicated matter.

As an example of how complicated a matter comparison of labor costs between different countries can be, it is necessary to take account of output per man-hour in order to show labor costs per unit produced. International comparisons of productivity are, however, rare and are indeed difficult to undertake. However, with the increasing use of similar technology by similar industries in different countries, man-hour productivity measurement in the future will be somewhat simpler than before.

ICFTU economists have proposed these criteria for determining fair labor standards on an international level:

(a) Average labor costs would be determined for the manufacture of a given export by producers in a foreign country. If one manufacturer fell below this industry average, he would not be allowed to export to the United States pending investigation as to why his labor costs were lower than his competitors.

(b) The relationship of wages in a country's exporting industry to wages in the country as a whole, and of wages in the importing country's industry to wages in the country as a whole. For example, if wages in the cotton textile industry of an exporting country were 30 percent below average labor costs of manufacturing industries in that same country, but average labor costs in the cotton textile industry of the importing country were only 10 percent below the average of labor costs of manufacturing industries in the importing country, wages in the cotton textile industry of the exporting country would be considered substandard and action taken accordingly.

(c) The third criterion applies to the situation where average unit labor costs in producing an export item are far below those prevailing in similar production sectors in the importing country. This criterion would take productivity into account by relating total average hourly labor costs to man-hours to produce a single unit basing itself not on money wages but real wages based on national consumption patterns.

However, the ICFTU agrees that unions in importing countries should press governments to adopt policies looking to expansion of gross national income, maintenance of high levels of demand, assistance to depressed areas, compensation and retraining for displaced workers before seeking adoption of protectionist measures.

The ICFTU also holds that unions in exporting countries should urge their governments to raise living standards of workers, thus broadening the domestic market, and to preserve and extend trade union rights so as to insure that a booming export trade is not merely the result of excessively low wage rates. In this connection, another criterion for determining whether an exporting country is pursuing fair standards is how free are workers to organize, to conduct strikes, and generally to make themselves felt in the development of national economic policies. Obviously, a country where workers lack genuine freedom of association and free trade unions, might very well enjoy an unfair market advantage over countries respecting such democratic rights.

Mr. GOLDWATER. Mr. President, Mr. Jacob Potofsky has certainly been a leader in the garment industry of this country. He is responsible for higher standards of work in that industry. He says:

The apparel industry of the United States, for example, is threatened by a mounting

tide of low labor cost imports from the Orient.

He says, also:

We do not view the international fair labor standards program as a method of dealing with the complex and pressing problems of market disruption and industrial dislocation resulting from the recent increase in international competition based on low labor costs. If the reciprocal trade program is to be preserved, more immediate and comprehensive action will have to be taken to meet these problems.

Mr. President, I ask unanimous consent that the entire article by Mr. Potofsky be printed in the RECORD at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Industrial Bulletin, December 1960]

STATEMENT OF JACOB S. POTOFSKY¹

The effort to achieve fair labor standards on an international level is a natural outgrowth of the traditional opposition of the labor movement to competition based on the exploitation of labor. We strongly support this effort as a long-range approach to assuring workers everywhere of a just share of their national product and of full participation in the fruits of industrial progress.

We do not view the international fair labor standards program as a method of dealing with the complex and pressing problems of market disruption and industrial dislocation resulting from the recent increase in international competition based on low labor costs. If the reciprocal trade program is to be preserved, more immediate and comprehensive action will have to be taken to meet these problems.

The apparel industry of the United States, for example, is threatened by a mounting tide of low labor cost imports from the Orient.

To forestall the destructive political, economic and social consequences of an intensification of unfair competition in the industry, prompt action is required, preferably on a multilateral basis, to safeguard historic levels of apparel production. At the same time, underdeveloped nations seeking to expand their garment industries to meet the apparel needs of their people should receive the necessary economic and technical assistance.

Mr. GOLDWATER. Mr. President, the president of the United Hat, Cap & Millinery Workers Union, Mr. Alex Rose, who is also the head of the Liberal Party in New York State, has recognized this growing problem. I shall not read from Mr. Rose's remarks, but I ask unanimous consent that his entire article, also published in the Industrial Bulletin of the New York State Department of Labor be printed in the RECORD at this point in my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From Industrial Bulletin, December 1960]

STATEMENT OF ALEX ROSE, PRESIDENT OF HAT WORKERS UNION, AFL-CIO, AND HEAD OF LIBERAL PARTY, NEW YORK STATE

The doctrine of free trade, like that of laissez faire upon which it is based, dies

¹ Jacob S. Potofsky has been president of the Amalgamated Clothing Workers of America for nearly 15 years and has been concerned with the problem of men's clothing competition from Asia. He is a vice president of the AFL-CIO executive council.

hard. Sooner or later, though, our policy-makers must recognize that we no longer live in a laissez-faire world, that the concept of the free market is as outdated as mercantilism.

No matter where hats are manufactured—in Italy, France, or the United States—workers must use the same machinery, must get their raw materials from the same sources. The one constant, crucial variable is wages. Today, no nation can expect to keep its work force going and its economy thriving by paying sweatshop wages. As the world of nations emerges from colonialism, competition becomes fiercer and fiercer; Japan is now bitterly moaning over the pressure from India, and India moans over the pressure from Hong Kong and Pakistan. Before long, the newly independent nations of Africa, armed with their Singer sewing machines, and paying even less wages, will be striving to sell men's suits, caps, and dresses to the American market.

Let us imagine for the moment that the free trade doctrine were extended to the outermost limits of logic and that all textile and apparel tariffs were eliminated. According to the figures of Howard Piquet, in "Aid, Trade, and the Tariff," this would sacrifice the jobs of some 200,000 American workers. But India, with a population of more than 400 million people and a work force of between 130 and 150 million would gain nothing by this drastic expedient, nor would any of the other newly emerging powers; the only ones to profit would be foreign sweatshop owners and operators.

If we were to rely solely upon the slow, natural evolution of free trade, the underdeveloped nations would have to wait some three centuries before their economies reached the point long since reached by Western Europe and the United States. In terms of simple humanity, in face of the Communist economic drive, the free world cannot, dare not permit them to wait so long.

Not trade, but substantial and sustained doses of aid are needed and needed now.

With technologies of the highest order, Western Europe and Japan can no longer justify low wages by citing the need to industrialize. Here are some 400 million potential customers for refrigerators, automobiles, television sets—and even hats. Our prime task is to increase their earning power. To that end, we should be lowering our tariffs where and when European manufacturers raise wages. We might well adopt the Federal government's technique in 1936, when it stipulated, via the Walsh-Healy Act, that contractors and suppliers wishing to do business with the Government must pay a set minimum wage—40 cents an hour, at a time when the prevailing industry wage fell between 20 and 25 cents an hour.

This will not and need not happen overnight. Back in 1953, for example, Puerto Rico's minimum wage for our industry was 22 cents an hour; today it has climbed to 75 cents an hour. We might apply the same "escalator" scale to European and Japanese manufacturers seeking business and with the United States. They could set up two basic minimum wage standards—one paid to those workers producing for the American market, the second to those who produce for other markets. Our high standards could serve as an incentive, spurring Europe and Japan to raise itself in the same "bootstrap" fashion as did Puerto Rico.

Mr. GOLDWATER. Mr. President, I do not believe there is much more that I can say on this subject. It is proposed artificially to raise wages and raise costs and raise prices. Certainly by this time we should be able to recognize the fact that there are evils which can come from all this. We have the possible evil of unemployment. Secretary of Labor Mitch-

ell made his report in 1960 to the effect that the passage of the last minimum wage increase did have an effect upon unemployment. He indicated that it would have been a greater effect had we not been in a rising point in our economy. We have the possible danger of inflation. I say possible because I will not say positively that it would happen. However, when we increase costs, the chances of increased inflation are always present. Then of course there is the constant and growing threat from foreign markets. We should adequately protect ourselves against that threat by including in the language of the bill a stronger statement than is contained in section 3(e) of the proposed act.

I have offered my amendment, which goes a step further, by requiring the Secretary of Labor to transmit his findings of investigations and his recommendations to the President; then I provide that the President may by proclamation make effective the Secretary's recommendations, and so forth. There is a safety feature included, in case people are worried about the effect of the amendment upon reciprocal trade agreements or other agreements with foreign countries relative to trade. In other words, we give the President the power to do it or not to do it. He may do it. However, when he does make up his mind, then his recommendation shall be carried through by the Secretary of the Treasury.

I hope that the Senator from Michigan [Mr. McNAMARA] will accept the amendment, to avoid the necessity of a yea-and-nay vote.

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

Mr. GOLDWATER. I ask for 1 more minute.

Mr. HUMPHREY. I yield 1 more minute to the Senator from Arizona.

Mr. GOLDWATER. I know my colleagues have appointments later in the day and this evening, and would like to get away early. I have an appointment also, and I would like to get away. Therefore I will not delay any longer in my explanation of the amendment. I do not see the Senator from Michigan on the floor. I would like to know what his disposition is with respect to the amendment before I ask for the yeas and nays.

Mr. HUMPHREY. Mr. President, the Senator from Michigan has discussed the amendment with the acting majority leader. The Senator from Michigan is not in favor of the amendment and urges it be not adopted. Prior to any vote on the amendment I shall make a brief statement in behalf of the Senator from Michigan and myself and the majority of the committee, in support of the bill as reported by the committee.

Mr. GOLDWATER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HUMPHREY. — Mr. President, I yield myself whatever time is required to make a brief statement on the amendment.

The PRESIDING OFFICER. The Senator from Minnesota has 20 minutes remaining.

Mr. HUMPHREY. Mr. President, the amendment which has been discussed in considerable detail by the Senator from Arizona should not be adopted. There is a provision in the committee bill which would accomplish the same purposes that the amendment is designed to accomplish. I call attention to the bill under section 4, subsection "e," which reads as follows:

(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in fact resulted, or is in fact likely to result, from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress: *Provided*, That he may also include in such report information on the increased employment resulting from additional exports in any industry under this Act as he may determine to be pertinent to such report.

This amendment is far different from the language I have just read. It is vastly different from any of the other proposals relating to quotas and tariffs. The committee bill simply authorizes the Secretary of Labor to study the employment effects of the import and export trade in industries covered by the act and to report such studies to the President and to Congress.

The amendment of the Senator from Arizona would change the tariff procedures and shift the whole philosophy of the Trade Agreements Act. It would not only expand the Secretary's responsibility so as to include recommendations with respect to excluding articles from entry into the United States or admitting them subject to specific terms and conditions and import duties, but would require investigations and findings of labor conditions particularly in terms of our own laws and standards. It would require public hearings, provide for import duties and import quotas, provide for Presidential proclamation, prescribe the duties of the Secretary of the Treasury and customs officers, and duplicate, alter, and confuse existing tariff procedures.

I might add that there now are procedures known as the peril point and escape clause. The U.S. Tariff Commission exists. There are ways and means of at least bringing these economic injustices to the attention of the appropriate authority established by Congress, namely, the Tariff Commission, which, in turn, may report to the President, and the President, under existing law, may take remedial action without violating the existing trade agreements.

This is not a proposal which should be adopted on the Senate floor. It requires careful committee consideration by committees other than the Committee

on Labor and Public Welfare. For example, it requires the very careful consideration of the Committee on Finance, which has jurisdiction of tariff matters. The amendment relates to powers exercised by the President and by other agencies in the executive branch.

Speaking in behalf of the majority of the committee which handled the bill, it is requested that the amendment not be adopted.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. PASTORE. Mr. President, will the Senator from Minnesota yield me 2 minutes?

Mr. HUMPHREY. I yield to the Senator from Rhode Island such time as he may desire.

Mr. PASTORE. Mr. President, I have much sympathy with the tone, spirit, and objective of the amendment. However, I quite agree with the Senator from Minnesota that what is being presented is a brandnew proposal which might be rather cumbersome and might tend to defeat the very objective which we are seeking to accomplish.

I am much aggrieved by the fact that these comments have been made about the amendment, because I would not want to see the objective which the Senator from Arizona seeks to accomplish weakened by any vote which might be taken on the amendment. I repeat: I am much in sympathy with what the Senator from Arizona seeks to accomplish.

This is a brandnew procedure. It is true that there are already the procedures of the peril point and escape clause; but I remind the Senator from Minnesota that in many instances those procedures, too, have been so cumbersome and protracted that sometimes domestic industries have been allowed to die before any relief was afforded.

However, I fear that what is being suggested in this particular amendment will not help at all in that direction. I hope that the Senator from Arizona will, at the proper time, renew his proposal in another form, possibly in another bill, which could be referred to the Committee on Finance, and that he will not seek action on the proposal today on the floor of the Senate. It would be regrettable if the amendment were defeated by, say, a vote of 60 to 30, because, as I have said many times before, if the New Frontier offers any challenge at all, it is the challenge of imports and exports and their effect on American industry. We must begin to consider this problem realistically and judiciously. I fear that it will not be possible to accomplish such an objective on the floor of the Senate this morning through the medium of this amendment. I hope the Senator from Arizona will see fit to withdraw it, or at least to withdraw his request for the yeas and nays.

Mr. KEATING. Mr. President, will the Senator from Minnesota yield time to me?

Mr. HUMPHREY. First, I wish to make a clarification; then I shall yield time to the Senator from New York. I yield myself 1 minute.

The distinguished Senator from Rhode Island has done much effective work in the area of foreign trade development and the solving of the problem of imports with respect to domestic industry. I do not want him to think for a moment that I am fully satisfied with the procedures available under existing law.

Mr. PASTORE. I realize that.

Mr. HUMPHREY. I find myself in considerable sympathy with some of the objectives which the Senator from Arizona seeks. I read his amendment very carefully. I also compliment the Senator from Arizona upon his discussion relating to the amendment. However, it is my considered view that this matter requires very careful attention. I think there is considerable sympathy for the objective which the Senator seeks. I myself was hopeful that it would not be necessary to follow the procedure of a yea-and-nay vote, to be frank, because it seems to me that the floor of the Senate is not an appropriate place to legislate on a question which has not yet been fully considered in committee.

Mr. GOLDWATER. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield on this item.

Mr. GOLDWATER. I am not deaf to the arguments that the floor of the Senate may perhaps not be the appropriate place to solve this problem, but I suggest that the bill itself raises the question. So long as section 3, which amends section 4 of the act, remains in the bill, then my argument is: Let us make it effective, because either we must have effective language to accomplish the purpose, or we will admit that we are fooling the people of the country. My amendment would merely add a little language to the language already contained in the bill, in order to give it some meaning. My reason for proposing the amendment here, instead of trying to do it through another avenue, is that the act will increase the cost of goods in this country. I do not think we can argue successfully that it will not. Therefore, the President should be given more power and the Secretary of the Treasury should be given more power to alleviate the troubles which the bill is bound to cause.

If the language is completely stricken from the bill, then we shall be back where we are now, which is before the Tariff Commission. I have gone through 8 years of beating my brains against a brick wall. I recall one proposal upon which they acted. It was in the field of lead and zinc.

As the Senator from Rhode Island points out, business after business in this country is folding up because of foreign competition. Either we mean what we say or infer in the amendment, or we do not. I do not like to be privy to any action which will fool the American worker or the American public. That is why I offered the amendment at this point.

I believe there are other measures relating to this subject which are before committees. I think three or four bills have been proposed. One introduced by the distinguished Senator from New

York [Mr. KEATING], who has long been interested in this subject, will be given very thorough and devoted study. His bill is directed toward accomplishing the same purpose.

The committee majority recognized that something should be done to alleviate the situation, so I have merely offered an amendment which will put some teeth into the language.

Mr. HUMPHREY. Mr. President, I yield 4 minutes to the Senator from New York.

Mr. KEATING. Mr. President, I find myself very much in the position in which the distinguished Senator from Rhode Island finds himself. He and I have discussed this general subject many times on the floor of the Senate. He is a sponsor, with me, of proposed legislation which seeks to attack the problem with which we are faced.

Under this bill, appeals would be submitted to the Secretary of Labor, who could, if he chooses, call upon the Tariff Commission for relevant trade and international economic data. In much the same manner as under the escape clause—section 7 of the Trade Agreements Act—the Secretary would then make an investigation and recommend to the President what action should be taken in those cases in which he finds that, because of the wage-cost differential, some measure of tariff, quota, or tariff-quota relief is warranted.

Mr. President, I have been impressed with the able presentation of the distinguished Senator from Arizona. The language of his amendment closely approximates the language of a bill (S. 675) which I introduced and which the distinguished Senator from Rhode Island cosponsored with a number of other Senators, including the Senator from Maryland [Mr. BEALL], the senior Senator from New Hampshire [Mr. BRIDGES], the junior Senator from New Hampshire [Mr. COTTON], the senior Senator from Connecticut [Mr. BUSH], the junior Senator from Connecticut [Mr. DODD], the Senator from Vermont [Mr. PROUTY], and the Senator from Wisconsin [Mr. WILEY].

I do not believe that the present machinery is adequate to deal with the problem of heavy increases in certain types of low-wage-produced imports. It is not. However, there are many ramifications on both sides of the pending amendment.

I think it should be passed at the appropriate time, but not included in this manner in a wages-and-hours bill.

There is a historic precedent in this case. When the Fair Labor Standards Act was first passed by the other body, an amendment similar to the present Goldwater amendment was ruled not germane. The ruling stated that this is actually tariff or revenue legislation and should be considered as such. I am afraid that there is too much substance to this argument for us in the Senate to vote today to adopt an amendment on which there have been no hearings or Senate committee consideration and which is certain to be stricken in conference.

If it is stricken in conference, then, I fear we shall be jeopardizing the fate of moderate trade proposals of this nature which can and should receive serious congressional consideration on their own merits.

I share the fear, which the Senator from Rhode Island expressed about a resounding vote against this amendment. Let me say here that it is with the utmost reluctance that I shall have to vote against the amendment.

Probably there is no one, unless it is the Senator from Rhode Island, who has said more on this floor than I have said about the need to do something in this area. I am much concerned that our action here today will be interpreted in many quarters, and perhaps by the new administration—which is not too friendly toward this approach; neither was the preceding administration—as meaning that on its merits the Senate is opposed to taking action of this kind.

If the amendment of the Senator from Arizona or an amendment close to it were before the Senate as a separate and independent bill, I believe it would be voted for by a majority of the Senate.

However, many of us who have a deep interest in this field will be compelled to vote against this measure, as an amendment to the minimum wage bill. I hope the Senator from Arizona, who has done so much on the amendment and has made so fine a presentation in regard to it, will feel that it is not essential to press for a vote on this amendment.

Mr. PASTORE. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. PASTORE. The position the Senator from New York takes in regard to the amendment is precisely the position I take in regard to this matter. I repeat that I am in sympathy with the objective of the amendment and what is sought to be accomplished in that connection. But the amendment would give overall authority to the Secretary of Labor. We know that international trade is a little more complex than that, and many other considerations must be taken into account.

So I believe that many of us who approve of its objective will have to vote against this amendment, although I shall do so with reluctance.

Therefore, I hope the Senator from Arizona will withdraw the amendment until later, when I believe the amendment will be much, much more acceptable and successful.

Mr. COTTON. Mr. President, will the Senator from Minnesota yield to me?

Mr. HUMPHREY. I yield.

Mr. COTTON. Mr. President, I can appreciate and understand the arguments which have been presented by the Senator from Rhode Island and the Senator from New York. I know they are completely sincere and are dedicated to defending the textile industry. But I learned from long and bitter experience, never to vote today against something in which I believe, on the promise that I shall have a chance to vote for it tomorrow. I remember when the Senator from Arkansas [Mr. FULBRIGHT] offered

an amendment to a tax bill; and the leadership on this side of the aisle, including the Senator from California, said:

Do not tie that amendment to this bill; it will come in later, and should be handled separately.

But if we had waited for that to happen, we would never have had a chance to handle it separately.

Mr. President, let us not kid ourselves. We shall have whisks reaching to the floor before we have another chance to vote on this affirmative proposition. So I shall not only vote for the amendment, I shall speak in favor of it and fight for its adoption.

Mr. PASTORE. Mr. President, will the Senator from Minnesota yield again to me?

Mr. HUMPHREY. I yield.

Mr. PASTORE. Let me ask whether the Senator from New Hampshire will admit that if there is a vote of 60 to 30 on the amendment, that will not be a true reflection of the feeling of the Senate on this particular proposition.

Mr. COTTON. I am not prepared to admit that there will be a vote of 60 to 30 on the amendment. I believe there are many Members of the Senate who are willing to vote for the amendment. I would be greatly surprised if they did not.

Mr. PASTORE. Of course the proof of the pudding is in the eating. So let us wait and see who is correct as to the vote.

Mr. KUCHEL. Mr. President, will the Senator from Minnesota yield to me?

Mr. HUMPHREY. I yield 3 minutes to the Senator from California.

Mr. KUCHEL. Mr. President, the way to prevent overwhelming disapproval of the amendment of the distinguished Senator from Arizona [Mr. GOLDWATER] is, on a yea-and-nay vote, for Senators to cast an overwhelming vote in favor of the amendment. That is the way to demonstrate, clearly and unmistakably, the position of the Senate.

Next year the Congress will sit in judgment on reciprocal trade legislation. I have supported reciprocal trade legislation, and I intend to support it again. But reciprocal trade is a two-way street. It ought to be mutually profitable to the nations participating in the program. It ought not to help one while hurting the other. Over the last 8 years, I have sat in innumerable sessions in which the executive branch of the Government has been represented; all of them were called for the single purpose of trying to give assistance to American manufacturers and American industry and American agriculture endeavoring to compete in their historic fashion in the markets of free nations abroad. But all too often our free friends abroad have seen fit to impose restrictions and delays upon American manufacturers and American industry and American agriculture, and have frustrated and sometimes prevented our fellow Americans from enjoying their historic place in the foreign market, which they enjoyed over the years.

Here, today, is an opportunity for the Senate to demonstrate that it does not

favor that sort of thing. Here today the Senate can clearly indicate that good trade relations work both ways. Today we have an opportunity—although perhaps not entirely clothed with all the legislative and parliamentary niceties which some would like to see adorn it; the Senator from Arizona gives us now an opportunity to assert that we believe American industry and American labor ought to be treated fairly and squarely. We ought not to apologize for being Americans. We represent America. The way to demonstrate that is for Senators to vote overwhelmingly in favor of the amendment of the Senator from Arizona. I congratulate him, and I hope the Senate will approve the amendment.

The PRESIDING OFFICER. The time yielded to the Senator from California has expired.

Mr. HUMPHREY. Mr. President, I am prepared to yield back the remainder of the time available to those who are in opposition to the amendment. All time available to the other side has been used, I believe.

Let me ask whether time is now available for a quorum call.

The PRESIDING OFFICER. One minute remains.

Mr. KUCHEL. Mr. President, we are willing to stipulate.

The PRESIDING OFFICER. The Senator has a right to suggest the absence of a quorum.

Mr. HUMPHREY. Very well, Mr. President. In that event, I yield back the remainder of the time available to this side; and I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, on this question, have the yeas and nays been ordered?

The PRESIDING OFFICER. Yes, the yeas and nays have been ordered; and all remaining time has been yielded back.

The question is on agreeing to the amendment of the Senator from Arizona; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. Mr. President, we have been requested by the chairman of the Committee on Interior and Insular Affairs, the Senator from New Mexico [Mr. ANDERSON], and one of the members of the committee, the Senator from Colorado [Mr. ALLOTT], to state, for the benefit of the Senate, that they are unavoidably detained.

Mr. HUMPHREY. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Alaska [Mr. BARTLETT], and the Senator from Idaho [Mr. CHURCH] are absent on official business.

I also announce that the Senator from Virginia [Mr. ROBERTSON] is absent because of illness.

I further announce that, if present and voting, the Senator from Virginia [Mr. ROBERTSON] would vote "nay."

On this vote, the Senator from New Mexico [Mr. ANDERSON] is paired with the Senator from Colorado [Mr. ALLOTT]. If present and voting, the Senator from New Mexico would vote "nay," and the Senator from Colorado would vote "yea."

Mr. KUCHEL. I announce that the Senator from Wisconsin [Mr. WILEY] is absent because of the death of his brother.

The Senator from Colorado [Mr. ALLOTT] is detained on official committee business, and on this vote is paired with the Senator from New Mexico [Mr. ANDERSON].

If present and voting, the Senator from Colorado would vote "yea" and the Senator from New Mexico would vote "nay."

The result was announced—yeas 39, nays 55, as follows:

[No. 32]

YEAS—39

Beall	Dirksen	McClellan
Bennett	Dworshak	Miller
Blakley	Eastland	Mundt
Boggs	Ellender	Prouty
Bridges	Ervin	Randolph
Bush	Goldwater	Russell
Butler	Gruening	Schoeppel
Byrd, W. Va.	Hickenlooper	Smith, Maine
Capehart	Holland	Stennis
Carlson	Hruska	Talmadge
Case, S. Dak.	Jordan	Thurmond
Cotton	Kuchel	Williams, Del.
Curtis	Long, La.	Young, N. Dak.

NAYS—55

Aiken	Hickey	Morse
Bible	Hill	Morton
Burdick	Humphrey	Moss
Byrd, Va.	Jackson	Muskie
Cannon	Javits	Neuberger
Carroll	Johnston	Pastore
Case, N.J.	Keating	Pell
Chavez	Kefauver	Proxmire
Clark	Kerr	Saltonstall
Cooper	Lausche	Scott
Dodd	Long, Mo.	Smathers
Douglas	Long, Hawaii	Smith, Mass.
Engle	Magnuson	Sparkman
Fong	Mansfield	Symington
Fulbright	McCarthy	Williams, N.J.
Gore	McGee	Yarborough
Hart	McNamara	Young, Ohio
Hartke	Metcalf	
Hayden	Monroney	

NOT VOTING—6

Allott	Bartlett	Robertson
Anderson	Church	Wiley

So Mr. GOLDWATER's amendment was rejected.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. MONRONEY. Mr. President, I call up my amendments "4-13-61-C," which are at the desk, and ask unanimous consent that the amendments may be printed in the RECORD without being read.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Oklahoma? The Chair hears none, and it is so ordered.

The amendments ordered to be printed in the RECORD are as follows:

On page 14, strike out lines 5 to 25, inclusive, and insert in lieu thereof the following:

"(s) 'Enterprise engaged in commerce or in the production of goods for commerce' means:

"(1) any enterprise which operates retail or service establishments in two or more States;

"(2) any enterprise which is engaged in the business of construction or reconstruction, or both, and which engages in such business in two or more States;"

On page 15, line 9, strike out the semicolon and insert in lieu thereof a colon.

On page 15, strike out lines 10 to 17, inclusive.

On page 18, line 18, strike out "(3), or (5)" and insert in lieu thereof "or (3)".

On page 18, lines 19 and 20, strike out "or (6)".

On page 24, line 19, strike out "(1), (2), or (5)" and insert in lieu thereof "(1) or (2)".

On page 29, line 24, strike out "3(s) (2)" and insert in lieu thereof "3(s) (1)".

Mr. MONRONEY. Mr. President, I wish to discuss my proposed amendment very briefly. Because of the limited time, I ask the Members of the Senate to permit me to complete this brief statement, and then I shall be glad to yield for any questions or discussion for which there is time.

This amendment is similar to one which I offered last year and which received the support of 48 Members of the Senate. I am somewhat surprised at the vigor of the attack on this amendment since I announced my intention to offer it again when the minimum wage bill came before the Senate this year. The amendment is a simple one and is concerned solely with the extent to which we shall increase the coverage of the act. It will have no effect whatever on the proposal to increase the minimum wage rate to \$1.25 per hour.

My amendment defines an enterprise engaged in commerce, whose employees would be made subject to the act, as one operating establishments in two or more States. This same test, rather than the dollar volume of their business, is applied to laundries, gasoline service stations, and construction companies. The amendment would make no other changes in the committee bill. All the hardship or special interest exemptions which have been written in by the committee would stand as they have been written in.

As Senators know, the present Fair Labor Standards Act regulates the wages and the hours of work of employees "engaged in commerce or in the production of goods for commerce." "Commerce" is defined as "trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof." The committee bill before us would throw this time-honored constitutional limitation on Federal power in the ashcan.

The committee bill, both last year and this year, introduces a new concept of interstate commerce into the act and represents a significant expansion of Federal regulation of local business activity. The new bill proposes to apply

the act not only to employees engaged in commerce, but to employees of a new animal called "an enterprise engaged in commerce." This was defined last year to mean, among other things, a retail or service enterprise having total sales in excess of \$1 million.

I count this definition as one of the great non sequiturs which has come to my attention in the course of my public service. If commerce means trade between the States, a business may or may not be engaged in commerce, regardless of its gross volume of sales.

I turned to the committee report of last year in an effort to determine the reason which led the committee to adopt this definition in order to bring retail and service establishments under the act. I found a perfectly simple explanation with which I had great sympathy. The committee report stated:

The underlying rationale for excluding retail trade from the Fair Labor Standards Act rests on the concept that retailing is purely local in nature. This belief is contrary to the structure of present-day retail trade in the United States and is based on a nostalgia for the simple agrarian economy of our early days as a nation, when the general store was a social center as well as a place to purchase goods. Retailing is now dominated by giant chains with outlets spread throughout the 50 States.

I felt that it was perfectly proper therefore to extend the coverage of the act to those giant chains which the committee rightly observed are now dominating retail business. They are not local in character. They are interstate, and they are, I felt, the proper subject of Federal regulation. I therefore proposed an amendment which would have defined an enterprise engaged in commerce, whose employees were subject to the act, not as one doing a million dollars of business solely, but as one which operates establishments in two or more States. This would have covered the interstate chains, which appeared to concern the committee, without extending regulation to purely local business.

I was encouraged in this approach by the fact that it was similar to the one adopted by the House of Representatives, in whose collective wisdom I perhaps have more confidence than do some of my colleagues who have not served there. I was also encouraged in this approach because the controversy over any extension of coverage made me believe that unless some such formula were adopted by the Senate in lieu of that in the committee bill, no bill would be enacted. For this prediction, I claim some gift of prophecy.

The committee bill this year has a similar provision, with some changes which I will discuss in a few moments, but the justification in the committee report now seems to be that the employees of retail and service establishments have been engaged all along in interstate commerce as defined by the act, and would have been subject to its wage and hour provisions except for the specific exemption of employees of retail and service establishments.

If this argument of the committee is valid, then its proposed amendments to existing law are unnecessarily compli-

cated. If the local grocery clerk is already engaged in interstate commerce, as it is defined in the present act, then all that would be necessary to make him subject to the act would be to repeal the present exemption of employees of retail or service establishments, and the new creature of the committee, the "enterprise engaged in commerce," is unnecessary.

The fact is that the employee of the local independent grocer has not been regarded as being engaged in interstate commerce as that term is now defined in this act. It is for this reason that they have: First, extended coverage to the employees of an "enterprise engaged in commerce"; and, second, defined that term to mean a retail store. Under the committee bill the "interstate commerce" in which an employee is engaged still means the same thing, but the "interstate commerce" in which an enterprise—the business he works for—is engaged means something different. The proponents have gone all around the barn to change the definition of interstate commerce. I do not believe that this is a pure accident of drafting. I think it is intentional.

The committee can take the view of Humpty-Dumpty in "Alice in Wonderland" that "when I use a word, it means just what I choose it to mean—neither more nor less", but the original sponsors of this act did not agree.

I do not believe that any one will challenge the liberality of the views of President Franklin D. Roosevelt, who, when he submitted his message to Congress proposing the Fair Labor Standards Act, recognized that interstate commerce had a substantive meaning. Discussing the proposed act at that time he said:

Although a goodly portion of the goods of American industry move in interstate commerce and will be covered by the legislation which we recommend, there are many purely local pursuits and services which no Federal legislation can effectively cover. No State is justified in sitting idly by and expecting the Federal Government to meet State responsibility for those labor conditions with which the State may effectively deal without fear of unneighborly competition from sister States.

His principal spokesman in the Senate and sponsor of the original bill was the then Senator Hugo Black, now Justice Black, who is certainly no reactionary or conservative. Senator Hugo Black stated:

Businesses of a purely local type which serve a particular local community, and which do not send their products into the streams of interstate commerce, can be better regulated by the laws of the communities and of the States in which the business units operate.

The House committee, which was certainly no reactionary committee, agreed. In its report on the bill it assured the House that—

The bill carefully excludes from its scope business in the several States that is of a purely local nature. It applies only to the industrial and business activities of the Nation insofar as they utilize the channels of interstate commerce, or seriously and substantially burden or harass such commerce. It leaves to State and local communities

their own responsibilities concerning those local service and other business trades that do not substantially influence the stream of interstate commerce.

Those men were liberals. Perhaps they would not be welcome today in the liberal marching society, but those were their words, and this was the genesis of the act which wiped out the sweatshops.

I point out that the dollar test would now make interstate commerce a fluctuating item from year to year. A store or an enterprise that does a business of \$1 million and 1 in the year 1961 would be declared to be in interstate commerce. If that store should do \$999,999 of business the following year, it would be removed from interstate commerce. Thus we have the clear Humpty-Dumpty definition that we are expected to act upon to change what has been the historic concept of how far the long arm of Government powers can reach.

The proponents of the bill have argued that my criticism of the new definition of interstate commerce is no longer justified, because it has been changed in the committee bill this year. Let me discuss these changes. An enterprise engaged in commerce is now defined as an enterprise which has one or more retail or service establishments. If the annual gross volume of sales is not less than \$1 million—a semantic absurdity which I will not discuss further—and if such enterprise purchases or receives goods for resale that have moved across a State line which amount in total annual volume to \$250,000. The committee report makes clear that the dollar amount is only a device to continue a more limited exemption than the general one now applicable to retail and service establishments.

The basis of classifying a business as being in interstate commerce is clearly indicated to be: If what a man sells or uses has moved in interstate commerce, he is engaged in interstate commerce.

I submit that the end result of this argument is to say: "Interstate commerce means 'the production, distribution, or sale of goods or services.' It simply means 'commerce', nothing more, nothing less. The regulation of all business is the prerogative of the Federal Government." I am not prepared to substitute the dollar sign for the constitutional limitation on Federal power. I agree with Mr. Justice Frankfurter that—

The interpenetrations of modern society have not wiped out State lines. It is not for us to make inroads upon our Federal system either by indifference to its maintenance or excessive regard for the unifying forces of modern technology. Scholastic reasoning may prove that no activity is isolated within the boundaries of a single State, but that cannot justify absorption of the legislative power by the United States over every activity.

An effort has been made on the floor and in the committee report to prove that the provisions of the McNamara bill are constitutional. Let me try to make my position clear. I apologize to the lawyers in the Senate if I sometimes use the term "constitutional" with the carelessness of the layman. I have no expert

knowledge of past cases in which the Court has discussed the commerce clause. I do not know whether, if the bill in its present form were enacted into law, the Court would hold it to be in excess of Congress power to legislate. However, I do not believe that the proper test of what Senators should do today is whether the Supreme Court will let us get away with it." This is not justified by the oath we took to support the Constitution of the United States. We, too, are the judges of whether the power that we exercise is within the constitutional limits of the powers of Congress to regulate commerce between the several States.

I think that the framers of the Constitution attempted to make a division between those matters which are more appropriately the concern of the National Legislature and those which are more appropriately the concern of the State legislatures. I think the Fair Labor Standards Act was drawn in this spirit. I have voted in the past for measures which some of my colleagues in the Senate have felt stretched the bounds of Federal authority, and I will probably do so again, but whatever our judgments on a particular measure, I believe that there are limits to that which it is appropriate or necessary for the Federal Government to regulate.

There has been considerable talk about the number of additional people which would be covered by the committee bill. I fail to see that the fact that they are covered is a positive good or an end in itself. Coverage buys no groceries. I assume we are trying to raise the level of wages. Today there are effective minimum wage laws giving at least a dollar an hour to employees of retail stores in Alaska, California, Connecticut, Hawaii, Maine, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, and Washington. A few days ago the Senator from Michigan placed in the record a table showing 39 large retail firms which would not be covered under my amendment.

Senators will recall the table of horrors. It showed the horrible examples of the giant stores which would escape wage-hour legislation if my vicious amendment were adopted. Well, Mr. President, we did a little research, and found that 18 of these horrible examples, which do more than 60 percent of the total volume of business of the 39 firms listed, are companies which do business in States which already have at least a \$1 minimum wage for retail employees.

Everyone knows that the States which have these laws started out parallel with the Federal Government. These progressive States, determined upon improving conditions, have consistently followed increases in the Federal minimum. I have no doubt that they will do so again.

Of the 4 million additional persons covered by the bill, the committee now acknowledges that only 728,000 are paid less than \$1 an hour. In the retail trade, the committee bill would extend the coverage of the act to 583,000

employees who now receive less than \$1 an hour. The Labor Department advises me that my amendment would extend coverage of the act of 400,000 of the 583,000 employees who now receive, according to the committee, less than \$1 an hour. We are talking, therefore, about 183,000 people who would be affected by this drastic revolutionary change in our historic concept of interstate commerce.

Even for employees in retail stores who are not covered by State minimum wage laws, we are not making a decision as to whether to raise their wages, but only whether to raise them immediately. The ultimate effect of the increase in the minimum wage is to raise all wages. This is one fact on which the proponents and opponents of the bill appear to be in complete agreement. An increase in the wages paid by Safeway or Sears, Roebuck or Montgomery Ward does increase the level of wages paid by an independent grocer in the same town. The question is solely whether this should be done directly by Federal intervention or indirectly as a result of Federal regulation of those who are actually engaged in interstate commerce.

The escalation of the wage over the years to the present wage of a dollar an hour proves that the Wage and Hour Act has raised the wages not only of the 24 million people who were covered by the act, but also of other wage earners. By looking at the wage scales throughout the country we see that the raise in wages has gone through all of our Nation's business.

If we extend the coverage of the Fair Labor Standards Act to those employees in the retail and service industries who work in enterprises operating establishments in more than one State, we will ultimately accomplish the same thing as would the committee bill, and we will do so without the necessity of asserting that every business activity is the proper province of Federal regulation.

On the other hand, what risks do we run by resorting to a Humpty-Dumpty definition of interstate commerce, by junking any rational view of its meaning, by asserting that the right of the Federal Government to regulate business is unlimited? In an effort to legislate directly in behalf of less than 183,000 people, I believe we seriously jeopardize increasing the minimum wage to \$1.25 for the 24 million people now covered.

The House bill provides for an increase to \$1.15. I believe the chances of the Senate conferees to maintain the \$1.25 rate in the final bill will be infinitely better if the provisions for new coverage accord with our traditional concepts of the limit of Federal power.

If the Senate again persists in the committee bill, as it did last year, I am convinced it will put in jeopardy the whole proposed legislation. Members of the House, who are in a leading position, tell me that there would be little difficulty in coming to an agreement on a compromise, such as my amendment presents.

I therefore suggest to Senators that the Monroney amendment is not only more sound constitutionally, but is also a practical recognition of the situation which we confront with the House.

Mr. GORE. Mr. President, will the Senator from Oklahoma yield?

Mr. MONRONEY. I yield.

Mr. GORE. Am I correct in concluding that the Senator favors increasing the minimum wage to \$1.25 an hour for all who are covered under the present law?

Mr. MONRONEY. That is correct—the 24 million now covered.

Mr. GORE. He also favors, does he not, increasing the coverage to some considerable extent beyond what it presently is?

Mr. MONRONEY. That is absolutely correct. I have voted, against other amendments which would provide for total exemptions in the retail trade, while my amendment covers retail employees in interstate businesses, that is, in an enterprise which operates in two or more States.

Mr. GORE. Do I correctly understand that the Senator favors increasing the minimum wage from \$1 an hour to \$1.25 an hour for all persons who are presently covered by the minimum wage law plus approximately 3 million additional people.

Mr. MONRONEY. That is the approximate figure.

Mr. GORE. The Senator feels that if the bill goes to the full extent now proposed by the committee bill, it may jeopardize the opportunity of obtaining in conference the increase to \$1.25 an hour for all those who are presently covered plus those whom the Senator is willing to bring under coverage?

Mr. MONRONEY. That is absolutely correct. Furthermore, the Senator knows the rules of the conference. If we go to conference from the Senate with the committee definitions, including the dollar test only on interstate commerce, meeting the highest provisions, there will be no room for compromise, because there will be no language in between which can be adjusted. Either the Senate must prevail in its definition, or the House must prevail. Our experience last year should be a warning for those who want to see the minimum wage raised to \$1.25 and we should try to provide some language on which the House will agree. I have talked to enough Members of the House to realize that my position will afford a greater opportunity, by far, to get legislation, instead of taking futile action in the Senate on this definition.

Mr. GORE. I earnestly favor increasing the minimum wage from \$1 to \$1.25 an hour in the steps proposed in the committee bill. I favor some increase in coverage, wherever it appears practical and justified; but I must say that I am impressed with the argument which the distinguished junior Senator from Oklahoma makes.

Mr. MONRONEY. I thank the Senator for his comment, because we attempt to cover every person who we feel can be covered under the traditional concept of interstate commerce. Nobody in that category is left out.

Mr. LAUSCHE and Mr. McNAMARA addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield; and, if so, to whom?

Mr. MONRONEY. If the Senator from Michigan will permit me to yield on my own time to the Senator from Ohio, I should like to yield next to the Senator from Michigan on his time, because I have very little time left.

Mr. LAUSCHE. It is my understanding that the Senator's amendment embodies the same scale of wages that is contained in the committee bill.

Mr. MONRONEY. Exactly; there is no change in the wages whatsoever.

Mr. LAUSCHE. However, the amendment of the Senator from Oklahoma contemplates a preservation of the historic and constitutional proposition that the Federal Government shall deal only in interstate commerce, and allow the States to determine for themselves what shall be done in intrastate commerce.

Mr. MONRONEY. The Senator is exactly correct. It is not proposed by the amendment to wipe out State lines with a dollar sign. It is as simple as that.

Mr. LAUSCHE. What is the opinion of the Senator from Oklahoma concerning the position which interstate commerce will occupy if the committee's version of the bill is adopted, and all commerce comes to rest and no longer is in transit, and becomes subject to Federal control and not State control?

Mr. MONRONEY. If the present definition is approved today by the Senate, it will be a short step to control over the man who mows a lawn, using a lawnmower made in Detroit.

Mr. LAUSCHE. Every working person in the country—the bookmaker, the candlestick maker, the shoemaker—will be covered and will be subject to Federal legislation unless he is specifically exempted under the provisions of the bill.

Mr. MONRONEY. They may be specifically exempted for the time being. But the definition wipes out State lines and substitutes a dollar sign, so any succeeding Congress can fluctuate the dollar figure up or down, so that a man who does not do a million-dollar volume may be covered a year later. The bill was introduced with the figure of \$500,000 a year and then raised to \$1 million. It can undulate like a wave. Furthermore, coverage can vary from year to year in the case of any business, depending on whether the volume of business exceeds or goes below \$1 million.

Mr. LAUSCHE. The committee bill, by using the dollar criterion alone in defining interstate commerce, makes it a simple matter to reduce the dollar figures in a few years, thus furthering federalizing control.

Mr. MONRONEY. Was that in the committee report? I did not see that.

Mr. LAUSCHE. No; that is my own statement.

Mr. MONRONEY. I agree with the Senator's statement, because any coverage will be within the reach of the Committee on Labor and Public Welfare or the Department of Labor or the Senate and House.

Mr. LAUSCHE. I am in accord with the Senator's views.

Mr. MONRONEY. I thank the Senator from Ohio.

Mr. McNAMARA. Mr. President, will the Senator tell me how the bookmaker is covered?

Mr. MONRONEY. If he grosses a million dollars a year in his business, and receives \$250,000 worth of tips from out of the State, he might be considered to be under the commerce clause.

Mr. LAUSCHE. This is a facetious remark, but the fact is that everybody is covered unless exempt; when the exemption is possible, the strong are exempt, and the weak are shackled.

Oh; the Senator is talking about the bookmakers at the racetrack.

Mr. MONRONEY. The bookmaker; not the bookkeeper. The bookkeeper will be covered; and all the businesses will be, no matter how legal, if their books show \$1 million a year in gross volume. They may not make a net profit, but if they make a \$1 million a year gross, they will be covered.

Mr. LAUSCHE. I do not speak with vanity, but when I spoke of bookmakers, my mind did not descend to the racetrack.

Mr. McNAMARA. Mr. President, will the distinguished majority leader yield 2 minutes to me for a short colloquy?

Mr. MANSFIELD. I am glad to yield to the distinguished Senator from Michigan the time he may require.

Mr. McNAMARA. I think the Senator's proposal is the novel approach rather than the standard approach. To support that statement, I may say that I do not think the Senator can cite one law under which his two-State proposal for coverage would be upheld. I do not think he can cite one court decision which is based on the coverage which he proposes in his language.

The language of the committee bill has been accepted by the courts and the National Labor Relations Board with respect to the dollar limitation. I do not think there is any question about the constitutionality of the committee language. We think there are decisions to justify our position, and we are glad to let the language rest as it is in our bill.

Mr. MONRONEY. The committee's theory could not have been tested, because the retail trade has been exempt by specific provision of the law up to now. There cannot be any test to say that say that this is constitutional. The Senator can borrow from the Wagner Act and say that something was held by the court to affect interstate commerce. One court case held that a man who washed windows on a bank building in New York came under the act because the bank was engaged in interstate commerce. We get some strange birds, but I do not presume to know what the court will do. I say that we have no right to say we will do it if the court will let us get away with it. That is not the test I think we should apply.

Mr. McNAMARA. I am talking about employees in the retail trade, wholly covered by Federal law and NLRB regulations. Those in the retail trade are covered.

Mr. MONRONEY. But that is because they affect interstate commerce. For example, goods which are moving by truck or by rail are often stopped by picket lines. We provided that under

\$500,000, they were exempt but that did not purport to be a definition of interstate commerce. The Senator knows, as well as I know, that there has never been a court case that passed on Federal regulation of purely interstate retail trade, because we have always had the good judgment and policy not to attempt to include them under the act. There will be a great case, some day, involving this question. I do not know what the Supreme Court will rule. But I know that under the Constitution, I am charged with voting only for laws which I believe conform to the Constitution and do not do violence to it.

Mr. McNAMARA. I am sure the Senator from Oklahoma is conscious that all of us take that position.

Mr. MONRONEY. Of course; and each of us must make his own interpretation of his duty and his responsibility. Certainly I cannot quarrel with a Senator whose judgment is different from mine.

Mr. McNAMARA. We have had able lawyers pass on this constitutional question; and we do not know of any case in which it has been held that a two-State standard must be used.

Mr. HOLLAND. Mr. President, will the Senator from Oklahoma yield to me?

The PRESIDING OFFICER (Mr. BURDICK in the chair). Does the Senator from Oklahoma yield to the Senator from Florida?

Mr. MONRONEY. I yield to my distinguished friend. As I have said, I am not a lawyer.

Mr. HOLLAND. Mr. President, the distinguished Senator from Michigan is technically correct, because the present definition of retail businesses which are excluded does not refer merely to two-State businesses, but States that if a majority of the business is done wholly within a State and if the minority is done as between the State of residence and other States—not only two, but many—the business is exempt, whereas unless the majority of the business is done within the State lines, the business is included under the coverage.

So my distinguished friend the Senator from Michigan is completely mistaken when he says this concept has not applied under present law or under present interpretations by the court.

The only point on which the Senator from Michigan is technically correct is that in the prior law there has been no such confining of the question to a two-State basis, as is proposed by this amendment. The prior law has distinguished between the State of location and other States in general; and it would be completely incorrect to say that the matter of location and the matter of the amount of business done within the particular State have not been taken into consideration under present law and under the interpretations of it.

Mr. MONRONEY. I thank the distinguished Senator from Florida.

Mr. McNAMARA. Mr. President, I shall leave the Record as it is, in this manner: I am completely wrong, but I am technically correct.

Mr. MONRONEY. Mr. President, I cannot conceive that a court would have

much trouble in finding that a business that operates in 40, 45, or 50 States is engaged in interstate commerce. But I would have very great doubt that the average court would find that a purely retail business which chooses to operate in only one State is itself engaged in interstate commerce.

The PRESIDING OFFICER. The time yielded to the Senator from Oklahoma has expired.

Mr. MANSFIELD. Mr. President, does the Senator from Oklahoma wish to have more time?

Mr. LAUSCHE. Mr. President—

Mr. MONRONEY. Mr. President, if the Senator from Ohio wishes to have some time, I shall be glad to have time on the bill yielded.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Ohio 4 minutes on the bill, in order to permit the colloquy to be continued.

Mr. LAUSCHE. I wish to make a brief statement.

Mr. MANSFIELD. I yield 4 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 4 minutes.

Mr. LAUSCHE. Mr. President, I support the amendment of the Senator from Oklahoma because it contemplates preserving for the people of the United States the historic principle that the Congress can deal only with interstate matters, not with intrastate matters.

I have set forth six reasons for my support of the amendment. They are as follows:

First. The State legislatures know better than the Congress what minimum wage bills dealing with commerce within the States are in the best interest of the separate States.

Second. The bill now about to be passed is the mere beginning of a complete federalization by way of control of the wages and working conditions that shall apply in practically every employer and employee relationship in our country.

Third. By the passage of the bill in its present form, the constitutional distinction between intrastate commerce and interstate commerce will forever be destroyed, and there no longer will be existent in the States the power to deal individually with conditions that apply particularly to the States.

Fourth. The sponsors of the bill by using the dollar criteria alone in defining interstate commerce know and intend that it will be a simple matter in election years to reduce the figures, thus furthering federalized control.

Fifth. The Federal Government under the Constitution has no power over intrastate commerce. People least governed are best governed, and excessive centralization and federalization will lead to an autocratic destruction of our freedoms.

Sixth. The States are fully vested with the authority to pass legislation governing minimum wages in their separate States; and when economic facts justify the enactment of minimum wage laws covering intrastate commerce, it can be assumed that the States will enact them.

I cannot subscribe to the idea that 50 State legislatures do not know what is good for their people. I cannot subscribe to the idea that the U.S. Congress possesses infallible judgment, surpassing that of the State legislatures, and that therefore the U.S. Congress knows what ought to be done, whereas the States do not know.

Let me ask the proponents of the bill: By what process of reasoning, by what magic wand, does the Congress say it knows, and that the States do not know? By what thinking can we argue that inasmuch as the States have not acted, the Congress of the United States should act.

The PRESIDING OFFICER. The time yielded to the Senator from Ohio has expired.

Mr. LAUSCHE. May I have 2 more minutes?

Mr. MANSFIELD. I yield 1 additional minute to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 1 more minute.

Mr. LAUSCHE. Mr. President, I humbly submit that it is arrogance of the worst type for us to say that 50 State legislatures, chosen by a sovereign people, do not know what they are doing, and that the Congress of the United States should say, "Only we are the possessors of knowledge." I submit respectfully to my colleagues that that would be the beginning of a monolithic, centralized, dictatorial government which in the end would destroy the very liberties under which we have reached such high social and economic standards.

Mr. MANSFIELD. Mr. President, I yield 10 minutes to the Senator from Oregon [Mr. MORSE].

The PRESIDING OFFICER. The Senator from Oregon is recognized for 10 minutes.

Mr. MORSE. Mr. President, I rise to address myself to the constitutional aspects of the debate in which we are now engaged.

The opponents of the committee bill suggest that the principal issue before the Senate is whether there will be a novel, far-reaching, and unconscionable extension of the Federal power into local enterprise.

In fact, this argument was settled 25 years ago, when the social legislation of the thirties was being debated and passed, and was then upheld by the Supreme Court, as a proper exercise of the Federal power under the commerce clause.

Mr. President, I believe it is important to make absolutely clear at this time that an extension of the coverage of the Fair Labor Standards Act to employees of retail or service enterprises is within the power of Congress under the interstate commerce clause of the Constitution, and therefore it represents nothing more than a choice of policy for the Congress to set a boundary upon the extent of that coverage.

The pending bill, which I strongly support, extends coverage to employees of retail or service enterprises engaged in commerce or the production of goods for commerce.

I repeat that phrase, Mr. President, "or the production of goods for commerce."

As a matter of legal definition, the retail or service enterprise:

First. Must be engaged in interstate commerce or in the production of goods for interstate commerce.

Second. At least \$250,000 in goods must have been moved across State lines to the enterprise each year.

In other words, \$250,000 in goods must come into the enterprise across State lines, directly or indirectly.

Third. The enterprise must have at least \$1 million in annual gross volume of sales.

I would have my colleagues keep those two criteria clearly in mind. There must be \$250,000 in goods coming into an enterprise which have crossed State lines. There must be \$1 million in gross sales.

And, finally, even if a particular retail or service establishment were located in an enterprise which met these criteria, it would still not come under the act unless it individually had an annual dollar volume of sales of \$250,000 or more.

When the Wage-Hour Act was originally adopted in 1938, the full reach of the commerce clause was then but partially unfolded. This act was the first cautious step by the Congress in a new area of legislation. The elimination from industries in commerce of wages too low to provide the minimum needs for food, clothing, shelter, and health of American workers. This first venture under the commerce clause was upheld by the courts in the case of *U.S. against Darby*, and in numerous decisions since then.

But, at that time, it was only a matter of recent determination—*Jones & Laughlin* (301 U.S.) a 1937 case—that goods mined, processed, or manufactured prior to their movement in commerce would be regulated. And Congress therefore went no further. Congress in 1938 decided to exempt the retail industry from the Wage-Hour Act—not on the basis that Congress did not have jurisdiction, not on the basis that retail establishments were not subject to jurisdiction under the interstate commerce clause of the Constitution; but as a matter of policy in 1938. I think this distinction must be kept clearly in mind in the course of the debate. The question is whether we should extend the full coverage of the act under the commerce clause to workers who are working in interstate commerce and who do not now get what is considered to be a fair and decent wage. That is the issue before the Senate—not a constitutional question at all, because, I respectfully submit, there is no question with regard to the constitutionality of the bill which the Senator from Michigan [Mr. McNAMARA] is today asking that we support.

It should be noted, however, that even the narrow coverage language used in 1938 was sufficient to cover some employees in retailing, and therefore a specific exemption from the coverage provisions had to be put into the act to exclude retailing.

The hesitancy of Congress to apply the act stemmed from the view of retail

and service outlets as "local business." True, many retail and service establishments remain small business units that affect the local community only, and such business would be exempt from coverage under the provision in the pending bill.

But, it is the new type of retail enterprise which our Nation's ever-growing mercantile system has produced that this bill is designed to cover. It is to protect those employees working in establishments, clearly within the gambit of the commerce clause, that we say it is now our policy to protect.

The large department store, the chain store, the supermarket, whether operated in a single State or in several States, have replaced and supplemented local "corner" shops; and the trend toward this modern type of retail distribution continues. Although such outlets may serve a limited area, they are often not controlled with the local community, not locally financed, and do not maintain a locally determined personnel, managerial, and purchasing policy. They sell nationally advertised products and take part in nationally inspired promotion programs.

It has now become clear that the commerce clause includes the distribution of goods following their crossing of a State line, and is as significant to their flow in commerce as is the movement of these goods prior to their crossing of the State line.

To put it differently: Though the present act extends to a whole complex of activities which precede commerce, it does not extend to the many other activities which follow commerce and which are of equally vital concern to the commerce of the Nation.

While Congress up to now chose not to apply the Wage-Hour Act to retail enterprises, it has shown no reluctance whatever to include such enterprises within the coverage of other Federal statutes.

I make this plea for legislative consistency today. I make the plea that it is just as important to protect workers under the Wage and Hour Act as it is to protect employers and employees from unfair labor practices under the Labor-Management Relations Act.

The most useful example of coverage under other Federal statutes is the National Labor Relations Act, since it, like the Wage-Hour Act, regulates conditions governing labor. Fair labor practices compared to fair labor standards.

The whole jurisdiction of Congress over labor relations flows from the interstate commerce clause of the Constitution. If that clause were not in the Constitution, the Congress would be without jurisdiction over labor problems.

Two cases under the National Labor Relations Act in which the Supreme Court has approved the assertion of Federal jurisdiction over retail concerns are the following: First, *Meatcutters v. Fairlawn* (353 U.S. 20), a 1957 case—which is the case I discussed at some length in the Senate last year, when I also opposed the amendment at that time—involving three retail meat markets, all of whose sales were made within the State, but whose annual out-of-State

purchases totaled slightly more than \$100,000 out of gross purchases of \$900,000; second, *San Diego Unions v. Carmon* (353 U.S. 26)—another 1957 case—where the impact on commerce of two retail lumber yards resulted from the purchase of \$250,000 worth of out-of-State material for resale.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MORSE. May I have 5 more minutes?

Mr. MUSKIE. Mr. President, I am happy to yield 5 more minutes to the Senator from Oregon.

Mr. MORSE. Mr. President, *NLRB v. Surburban Lumber Company* (121 F. 2d 829 (1941)), involved a retail lumber dealer, 99 percent of whose sales were intrastate, but who purchased about \$150,000 worth of lumber from other parts of the country. In dismissing the appeal in this case, the Court of Appeals for the Third Circuit stated:

Our courts have been addressed by the constant contention that the National Labor Relations Board lacks jurisdiction. This is the more remarkable in view of its complete lack of success. Locusts destroy but appeals against regulation by the National Labor Relations Board of business on the ground that it is intrastate are harmless insects indeed. (We know of only one case in which any court has dismissed the Board's petition for that reason. There the business sought to be controlled was a California gold mining company and the only interstate elements were the purchase of supplies manufactured outside the State and the shipment of some gold to a mint in Colorado.)

Exactly 2 years ago in this very Chamber, the Senate considered very substantial amendments to the National Labor Relations Act. We heard strongly held views that certain powerful unions were conducting blackmail picketing against small employees—and many of the examples cited were meatmarkets, department stores and hardware merchants. Nobody on this floor suggested that regulation of such conduct was an unconstitutional extension of Federal power. Indeed, we said, in effect, that the Board might not even exercise its discretion to refuse jurisdiction over an unfair labor practice which affected a retail store having annual gross sales of \$500,000.

We told the Board it had to take these cases and that it could not refuse them. Today we are arguing about a boundary line of \$1 million—twice the figure of 2 years ago.

Where were the cries 2 years ago about attaching a dollar sign to the Constitution? Where were the qualms of conscience about Federal power regulating employee activity?

What is the significance of what I have said here today? Clearly there is no constitutional reason for continuing the exclusion of retail enterprises which engage in interstate commerce even though they sell their goods wholly within one State. Congress itself has demonstrated its own rejection of this principle and it has been universally upheld by the courts. The retail industry has itself developed into a nationwide system of distribution. Nothing is left then but a matter of policy—a matter for the exercise of the congressional will.

It is this context—one of choice for the Congress—which presents us with a choice between the committee bill and that sponsored by the Senator from Oklahoma.

I am in favor of a bill which will draw a boundary between large enterprises and small ones, and I am against a bill which will discriminate against a small chain in favor of a large department store because the former has stores in two States and the latter does not. Both do business interstate—yes, even with foreign countries.

I am in favor of a bill which is designed to bring within the Wage-Hour Act's coverage only those enterprises whose operations have a significant impact on commerce.

I believe that a minimum of \$250,000 goods from out of the State and a \$1 million sales test represents a policy determination by the Congress which is moderate and practical. This is the approach of the committee bill.

Mr. President, I ask unanimous consent that a legal memorandum in support of my views, in which I discuss case after case dealing with the major premises I have laid down in my brief speech, be printed in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

LEGAL AND CONSTITUTIONAL IMPLICATIONS OF THE BILL REPORTED BY THE SENATE LABOR COMMITTEE AND THE MONRONEY AMENDMENT AS THEY WOULD AFFECT COVERAGE UNDER THE FAIR LABOR STANDARDS ACT

PROVISIONS INVOLVED

Pertinent provisions of the proposed amendment in the committee bill to the Fair Labor Standards Act, as amended (29 U.S.C. 201 et seq.) are contained in section 3(s) which would be added to the act by the bill. The section defines "Enterprise" engaged in commerce or in the production of goods for commerce" to mean—

"Any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

"(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1 million, exclusive of excise taxes at the retail level which are separately stated, and if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the selling establishment) which amount in total annual volume to \$250,000 or more; ²

¹ Enterprise is defined in the committee bill as meaning related activities performed by any person for a common business purpose. It would include all such activities whether performed in one or more establishments or by one or more corporate or other organizational units. However, local retail or service establishments which are under independent ownership and control would not be considered other than separate enterprises simply because they have franchise, licensing, exclusive dealership or group purchasing arrangements.

² Even though a particular establishment is part of an enterprise which comes under the coverage provisions of the bill, an amendment to section 13(a)(2) of the act would provide a minimum wage and overtime exemption for such establishment if it does not itself have gross annual sales of at least \$250,000.

"(2) any such enterprise which has one or more establishments engaged in laundering, cleaning, or repairing clothing or fabrics if the annual gross volume of sales of such enterprise is not less than \$1 million, exclusive of excise taxes at the retail level which are separately stated;

"(3) any such enterprise which is engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier;

"(4) any establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;

"(5) any such enterprise which is engaged in the business of construction or reconstruction, or both, if the annual gross volume from the business of such enterprise is not less than \$250,000;

"(6) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000 exclusive of excise taxes at the retail level which are separately stated."

A proviso to this definition ensures that the so-called "mom and pop" stores will not be considered to be, or to be part of, an enterprise within the meaning of the definition.

The effect of the Monroney amendment would be to limit most of the quoted provisions in section 3(a) of the committee bill so that they would apply only to enterprises operating establishments in two or more States.

ISSUES INVOLVED

The issues presented are:

(1) Do the new coverage provisions in the committee bill particularly as they relate to retail or service enterprises go beyond the constitutional authority of Congress to regulate interstate commerce; and

(2) Does the proposed Monroney amendment to the bill provide a basis for expanding the act's coverage which is more consonant with well established principles with regard to exercising the Federal commerce power.

ACT'S PRESENT BASIS OF COVERAGE

The application of the present act is restricted to those particular employees who are "engaged in commerce or in the production of goods for commerce" as those terms are broadly defined in section 3 of the act, provided they do not come within one of the exemptions in the act.

"Produced" is defined in section 3(j) to include manufacturing, mining, and all of the usual operations which the term ordinarily suggests. The definition also includes "any closely related process or occupation directly essential to the production," which is effective in bringing the benefits of the act to employees not personally engaged in production, such as clerical, maintenance, and custodial workers,³ and the employees of independent contractors supplying essential services to the producer, such as tools, dies, water, and electric power he uses in production.⁴

Section 3(1) defines "goods" broadly to include "any part or ingredient thereof," so that even a producer who distributes his

³ House managers report, 95 CONGRESSIONAL RECORD 14928, 14929; majority of Senate conference, 95 CONGRESSIONAL RECORD 14874, 14875; *Union National Bank v. Durkin*, 207 F. 2d 848 (C.A. 8, 1953), *Mitchell v. Realty*, 211 F. 2d 198 (C.A. 2, 1954), cert. den. 348 U.S. 823 (1954).

⁴ House managers report, 95 CONGRESSIONAL RECORD 14929; majority of Senate conference, 95 CONGRESSIONAL RECORD 14875; *Mitchell v. Mercer Water Co.*, 208 F. 2d 900 (C.A. 3, 1953).

product locally must comply with the act if he has reason to believe that some of it is regularly used as parts or ingredients of other goods produced for interstate shipment.⁵ The definition also extends to "articles or subjects of commerce of any character" so as to include the Western Union Co.'s production of telegrams,⁶ and the issuance of bonds, stocks, and the like.⁷

Section 3(b) defines "commerce" to include interstate or foreign commerce in the constitutional sense, so that it extends to the farthest reaches of such commerce, bringing within the basic coverage of the act all employees in it or so clearly related to it as to be, in legal contemplation, a part of it.⁸ This includes not only the employees who move the goods, but also those who write the letters and keep the books relating to the interstate movement,⁹ and those who maintain the instrumentalities by which the commerce is carried on.¹⁰

In keeping with these broad statutory definitions of the coverage language used in the present act, the courts have repeatedly expressed the view that this language should receive a liberal interpretation consonant with the definitions, with the purpose of the act, and with its character as remedial and humanitarian legislation.¹¹ Thus, the undefined word "for" in the phrase "production for commerce" has not been restricted to production for shipment in commerce, but has been applied to bring within the protection of the act production for local use in facilitating interstate commerce in other goods, such as the production of rock and paving material for local use by others in maintaining river revetments, roads, railways, and airport runways used in the interstate movement of other goods.¹² Similarly, the phrase as a whole has been applied to cover all of the production of goods for a stockpile, only a relatively small part of which is regularly selected for interstate shipment,¹³ and to cover all of an employee's hours of work in a workweek if any substantial part of it is covered work.¹⁴

CONSTITUTIONALITY OF BASIS OF COVERAGE PROPOSED IN THE COMMITTEE BILL

The constitutional authority of the Congress, in the exercise of the commerce power, to extend the act's coverage on the basis provided in the bill reported by the Senate Labor Committee is abundantly clear.

⁵ *Tobin v. Colery City Printing Co.*, 197 F. 2d 228 (C.A. 5, 1952).

⁶ *Western Union Telegraph Co. v. Lanroot*, 323 U.S. 490 (1945); the holding that Western Union might employ oppressive child labor because it was engaged in interstate commerce rather than production therefor is no longer the law in view of section 12(c) supplied by the Fair Labor Standards Amendments of 1949.

⁷ *Union National Bank v. Darkin*, *supra*.

⁸ *Overstreet v. North Shore Corp.*, 318 U.S. 125 (1943); *Pedersen v. J. F. Fitzgerald Construction Co.*, 318 U.S. 740 (1945); *McLeod v. Threlkeld*, 319 U.S. 491 (1943); *Walling v. Jacksonville Paper Co.*, 317 U.S. 564.

⁹ *Walling v. Jacksonville Paper Co.*, 128 F. 2d 395 (C.A. 5, 1942), affirmed on this point, 317 U.S. 564 (1943).

¹⁰ *Overstreet v. North Shore Corp.*, *supra*; *Pedersen v. J. F. Fitzgerald Construction Co.*, *supra*.

¹¹ *Phillips Inc. v. Walling*, 324 U.S. 490 (1945); *U.S. Cartridge Co. v. Powell*, 339 U.S. 497 (1950); *Roland Electrical Co. v. Walling*, 326 U.S. 657 (1946).

¹² *Alstate Construction Co. v. Durkin*, 345 U.S. 13 (1953); *Thomas v. Nempt Bros.*, 345 U.S. 19 (1953).

¹³ *United States v. Darby*, 312 U.S. 100 (1941); *Mabee v. White Plains Pub. Co.*, 327 U.S. 178 (1946).

¹⁴ *Walling v. Jacksonville Paper Co.*, *supra*.

Present basis of coverage does not reach many vital activities within scope of Federal commerce power.

The constitutionality of the application of the present act to employees engaged in commerce or in the production of goods for commerce has been upheld by the U.S. Supreme Court.¹⁵ The Court has also emphasized in numerous cases under the act that the Congress in providing this coverage stopped considerably short of the full reach of its constitutional power under the commerce clause.¹⁶ Though the present act extends to a whole complex of activities which precede commerce, it does not extend to the many other activities which follow commerce, and which are of equally vital concern to the commerce of the Nation.

The operations of large retail enterprises which would be made subject to the act by the committee bill come within this latter category of activities. Under the act's present basis of coverage, the relation between the production of goods, before any movement is begun, and their subsequent movement in commerce, is recognized as an appropriate basis for Federal regulation authorized by the commerce clause. However, the relation between interstate commerce and distribution to the consumer of these same goods is ignored. The effect on commerce of labor conditions in production of the article which subsequently moves in commerce is recognized, though the effect on commerce of labor conditions in the distribution of the article is not. The obvious economic fact that demand for a product causes its interstate movement quite as surely as does production, is not recognized in the present act.

Similarly, the present act, adopting as its standard for basic coverage, the relationship between each individual employee's work and interstate commerce or production denies protection to other employees without regard to the fact that the enterprise and industries in which they are employed are substantially engaged in commerce or in the production of goods for commerce. Because of this approach to coverage, the act presently does not extend to large areas of employment which Congress could appropriately regulate and which also come within the broad purpose of the act.

Use of "enterprise" basis for extended coverage is sound.

The new basis of coverage proposed in the committee bill under which all employees of an enterprise "engaged in commerce or the production of goods for commerce" will be covered is realistic in concept and practical, yet moderate, in its approach.

There is no question of the power of Congress to extend the act's protection to all employees of an enterprise as is proposed in this bill. That the activities of employees of an enterprise may determine whether or not it is engaged in commerce or in the production of goods for commerce was settled by the Supreme Court in the *Kirschbaum* case when it held that "to the extent that his employees are 'engaged in commerce or in the production of goods for commerce,' the employer is so engaged."¹⁷ As previously noted, the bill requires that the enterprise have employees engaged in commerce or the production of goods for commerce, "including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person." In addition, such enterprise must purchase or receive goods for resale that move or have moved across State lines (not in deliveries

from the selling establishment) which amount in total annual volume to \$250,000 or more. Thus, these provisions ensure the interstate character of enterprises qualifying for coverage.

Retailing and other businesses covered by the Committee bill need not be multi-State operation to come within scope of Federal commerce power

It has long been settled by the Supreme Court that "the power of Congress to regulate interstate commerce extends to the regulation through legislative action of activities intrastate which have a substantial effect on the commerce or the exercise of the congressional power over it."¹⁸

It is equally settled that the question of whether "the conduct of an enterprise affects commerce among the States is a matter of practical judgment," and that the "exercise of this practical judgment the Constitution entrusts primarily and very largely to the Congress."¹⁹

Under these principles, there is no question that a practical judgment by the Congress that the retail and other enterprises covered by the bill have a substantial impact on commerce would be upheld by the courts.

The congressional findings in section 2 of the present act state that "the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers" among other things "burdens commerce and the free flow of goods in commerce" and "leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce" as well as "interferes with the orderly and fair marketing of goods in commerce."

That the retailing, laundry, construction, and other industries affected by the committee bill are industries engaged in commerce to which these findings are applicable should be beyond question. With respect to retailing, for example, it is upon the sales made and the orders placed by the enterprises in this industry that the production for commerce and the continuing flow across State lines of consumer goods depends. The retail sales of goods by our large enterprises do not involve a purely local activity. Rather, they represent the terminal activity of a complex and huge interstate distribution and movement of goods to the ultimate consumer. Such local coloration has been overemphasized at the expense of the relation of retailing to interstate commerce, and desirable or necessary regulation. As stated in the report of the Committee on Labor and Public Welfare on proposed amendments to the act during the 86th Congress.²⁰

"Retailing can be considered as local in character only if it is viewed from a narrow technical approach limited to the fact that sales of an individual store are generally restricted to a given locality. But a realistic approach must also consider the origin of the goods and the structure of retailing used to sell the goods. There is nothing local about retailing which purchases goods from various States of the Union and from foreign markets."

A recent report of the Committee on Education and Labor of the House of Representatives also stated:²¹

"Retailing today is no longer essentially local in nature. It has become a vital and indeed indispensable part of the interstate stream of commerce through which flows the huge volume of consumer goods produced, shipped, and distributed to meet

the individual and family demands of our Nation's population. The efficiency with which the country's retail enterprises perform their function of getting these goods to consumers directly affects the vitality and growth of these segments of American industry which produce, handle, and transport through the arteries of interstate commerce from every corner of the land the commodities which supply our citizens in all the 50 States."

The exercise of Federal authority under the commerce clause with respect to employment in retailing and with respect to goods which have moved across State lines and are held for local disposition is not novel. Prior to the so-called "no-man's land" amendment to the National Labor Relations Act, made by the Labor-Management Reporting and Disclosure Act of 1959, the National Labor Relations Act was repeatedly held to provide exclusive procedures, and to bar State action, with respect to labor relations problems of retailers handling goods that had moved across State lines, even though all or most of their sales were within the State of location.²² The constitutional power of Congress under the commerce clause to exercise authority with respect to "articles that have completed an interstate shipment and are being held for future sales in purely local or interstate commerce" is also settled. For example, in the case of *United States v. Sullivan*,²³ a druggist was convicted of failure to comply with labelling requirements for sulfathiazole which was sold to customers after it had moved in commerce. A recent exercise by the Congress of this authority is the legislation (Public Law 85-506) requiring certain information for prospective purchasers to be kept posted on new automobiles prior to their sale to the ultimate consumer and providing penalties for any willful removal or alteration of the label containing the required information.

Use of \$1 million sales test in establishing coverage is constitutional.

By limiting coverage to retail enterprises having a gross annual sales volume of at least \$1 million.²⁴ The committee bill would provide even greater assurance that only enterprises with substantial impact upon commerce would be reached than did the enactment by the last Congress of legislation under which the National Labor Relations Board may not decline to assert jurisdiction in the case of a retail enterprise having annual gross sales of \$500,000 or more.²⁵ When the Board adopted the \$500,000 figure for its jurisdictional standard in such cases, it determined that this would "reasonably insure that jurisdiction will be asserted over all labor disputes involving retail enterprises which tend to exert a pronounced impact

²² See *Amalgamated Meat Cutters and Butcher Workmen of North America v. Fairlawn Meats, Inc.*, 353 U.S. 20 (1957) (three retail meat markets, all of whose sales were intrastate, but whose annual out-of-State purchases totalled slightly more than \$100,000 out of gross purchase of \$900,000); *San Diego Building Trades Council v. Garson*, 353 U.S. 26 (1957) (two retail lumber yards whose out-of-State purchases totalled \$250,000). See also *Howall Chevrolet Co. v. N.L.R.B.*, 346 U.S. 482 (1953) (retail automobile dealer purchasing from local warehouse of General Motors autos and parts manufactured out of State).

²³ 332 U.S. 689 (1948).

²⁴ As noted in footnote 1a supra, an individual establishment having gross annual sales of less than \$230,000 would be exempt from the minimum wage and overtime provisions of the act, regardless of the volume of sales of the enterprise of which it is a part.

²⁵ Public Law 86-257, sec. 701.

¹⁵ *United States v. Darby*, supra.

¹⁶ *Kirschbaum v. Walling*, 316 U.S. 517 (1942); *Higgins v. Carr Bros.*, 317 U.S. 572 (1943); *Walling v. Jacksonville Paper Co.*, supra; *Mitchell v. Zachary Co.*, 362 U.S. 310 (1960).

¹⁷ *Kirschbaum v. Walling*, supra.

¹⁸ *United States v. Darby*, supra.

¹⁹ *Polish National Alliance v. N.L.R.B.*, 322 U.S. 643, 650 (1944).

²⁰ S. Rept. 1744, p. 15.

²¹ H. Rept. 75, 87th Cong., p. 8.

upon commerce."²⁰ The enactment of Public Law 86-257 indicates that the 86th Congress also concluded that retail enterprises with this volume of business have sufficient impact upon commerce to justify a continuance of conclusively Federal regulation of labor-management relations. It would obviously be fatuous now to assert that the National Labor Relations Board, an administrative agency, may lawfully prescribe jurisdictional standards on a volume-of-business basis, but that such authority is constitutionally denied the Congress.

The million-dollar limitation undoubtedly provides a coverage which falls far short of exercising the constitutional power to its fullest extent. It is now well settled by decisions of the Supreme Court that the constitutional power extends to activities affecting interstate commerce in any amount or volume not so minimal and sporadic as to invoke the legal doctrine of *de minimis non curat lex*. As stated by the Supreme Court in a case involving the National Labor Relations Act, "The power of Congress to regulate interstate commerce is plenary and extends to all such commerce be it great or small", since "commerce may be affected in the same manner and to the same extent in proportion to its volume, whether it be great or small."²⁷

Thus in *Guso v. Utah Labor Relations Board*,²⁸ the Supreme Court held that manufacturing operations involving the inflow from out-of-State sources of less than \$50,000 of supplies sufficiently affected interstate commerce to invoke coverage of the National Labor Relations Act and to oust State jurisdiction even though the National Labor Relations Board has declined to assert jurisdiction. And in *N.L.R.B. v. Stolter*,²⁹ the National Labor Relations Act was held applicable to a local drycleaner who purchased \$12,000 worth of supplies from outside the State, the court holding that that amount "was not so insignificant as to come within the rule *de minimis non curat lex*."

The impact on interstate commerce of a retail enterprise having gross sales of a million dollars or more a year will be more, rather than less, than that of those retail enterprises now covered by the National Labor Relations Act which have annual gross sales of only half a million dollars. Since the Congress and the courts have approved the National Labor Relations Act coverage as a proper exercise of Federal authority under the commerce power, there is no question that this moderate exercise of Congressional power in the committee bill would be upheld as constitutional.

MONRONEY AMENDMENT WOULD IMPEDE, NOT PROTECT, INTERSTATE COMMERCE

The Monroney amendment would not protect the limits of the congressional power to regulate interstate commerce. Rather, it constitutes an arbitrary and discriminatory limitation on the exercise of that power. It is based on the unrealistic assumption that if a business happens to be operated at more than one location and one of those locations fortuitously is located across a State line, then it is necessarily engaged in interstate commerce. The impact of the business on commerce would be immaterial and competing businesses of much greater magnitude would be excluded from the

act's coverage by the mere circumstance of location.

As stated in the "Finding and Declaration of Policy" of the Fair Labor Standards Act, among the conditions it seeks to eliminate are those which burden commerce and the free flow of goods in commerce. It would be inconsistent with such purpose to incorporate provisions in the act which would inhibit businessmen in expanding their operations into more than one State. This, however, is the precise effect the Monroney amendment would have. So long as a business enterprise confined its activities to a single State, it could remain outside the scope of Federal wage and hour regulation. As soon, however, as it established a branch or other unit in another State it would immediately bring itself within the scope of Federal wage and hour standards. Under these circumstances, business enterprises could be expected to refrain from opening up branch establishments in other States or to delay doing so longer than might otherwise be the case. This could have particularly unfortunate and discriminatory effects in large metropolitan areas which are located near interstate boundary lines. Such an inhibitory effect on normal business growth and expansion would "burden commerce and the free flow of goods in commerce" in a very real sense.

While the act now establishes its coverage only on the activities of the individual employee, it does not restrict its coverage to those workers who are employed by employers who have establishments in two or more States. The effect of the Monroney amendment would be to declare that for an employee basis of coverage employment in a multistate operation is not necessary but for coverage on an enterprise basis it is. Obviously this would be an inconsistent exercise of the commerce power which is neither necessary nor desirable.

The Committee on Labor and Public Welfare considered and rejected as a test of interstate commerce the operation of an enterprise of establishments located in more than one State. The locale of the establishments, whether in one or in more than one State, was found by the committee to have little or no relation in and of itself to the involvement of the enterprise in interstate commerce. There are many enterprises, both individual and chain, which operate in only one State but which do many millions of dollars in business and buy and sell huge quantities of goods brought into the State from many other States and foreign countries. On the other hand, many small local enterprises in metropolitan areas near State lines operate establishments in more than one State. Similarly, there are many businessmen who operate stores which are predominantly local in widely separate areas in different States, whose involvement in interstate commerce is minimal compared with that of the much larger enterprises which happen to operate within the confines of a single State.

Thus, the 4,800 retail establishments which in 1958 the Census of Business found had annual sales of \$1 million or more but which operated in only one State would be excluded from the coverage of the act by the Monroney amendment. In retailing alone, some 1 million employees would be denied the act's protection by this provision. On the other hand, many of the 200 retail companies which operated five to nine establishments in two or more States and had annual sales of less than \$500,000 would be covered. Such unequal and unfair treatment is not based on a reasonable and equitable application of the commerce clause. Rather, it is based on an irrelevant and immaterial factor which has never been

considered a proper basis for applying the Fair Labor Standards Act.

The principle of multi-State operation as an essential element in determining wage-and-hour coverage is neither necessary nor advisable from a legal, constitutional or economic standpoint.

It is completely inconsistent with a long line of decisions of the U.S. Supreme Court interpreting the commerce clause of the Constitution. The Court has never held that a business enterprise must have establishments in two or more States in order to be subject to Federal regulation under the commerce clause. The question in every case, according to the Court, is whether or not the enterprise business is such that it substantially affects commerce or that such business constitutes commerce itself or production of goods for commerce. See *Amalgamated Meat Cutters v. Fairlawn Meats, Inc.*, *supra*; *Hotel Employees v. Sak Enterprises*, 358 U.S. 270, and *Hotel Employees v. Leedom*, 358 U.S. 99; *Baltimore Transit v. NLRB*, certiorari denied, 321 U.S. 795, and numerous other decisions of the Court.

The Monroney amendment is also inconsistent with legislation enacted by the Congress, while, on the other hand, the committee bill is completely consistent with such legislation. For example, the National Labor Relations Act and the Labor-Management Reporting and Disclosure Act apply our basic Federal labor relations statutes to employees of employers engaged in activities affecting commerce. Similarly the Motor Carrier Act, the Sherman Anti-Trust Act, the Federal Trade Commission Act and the Clayton Act regulate activities of employers engaged in interstate commerce. None of these laws require, as a condition to their application, that employers must operate establishments in two or more States.

CONCLUSION

The extension of the act's coverage to additional workers provided in the committee bill does not constitute an invalid exercise of the Federal commerce power. Its approach is moderate and practical, being designed to bring within the act's coverage the employees of only those enterprises whose operations have a significant impact on interstate commerce. It has been amply demonstrated that a business operation need not be conducted in more than one State in order to be engaged in interstate commerce and the act does not now so provide. The fact that retail sales constitute the terminal activity in the movement of goods from producer to ultimate consumer does not make them any less a vital part of the flow of interstate commerce. Moreover, the prerequisites for coverage that the retail enterprise have employees engaged in or producing for commerce, that it purchase or receive goods for resale that move or have moved across State lines (not in deliveries from the selling establishment) which amount in total annual volume to at least \$250,000, and the \$1 million sales test ensure that the enterprises covered by the committee bill are not "small local" businesses and are properly subject to Federal wage-hour coverage.

The Monroney amendment would inject the fortuitous circumstance of geographical location of establishments as a prime basis for coverage. An amendment of this nature to the basic coverage provisions of the committee bill would be grossly discriminatory.

As a result of such change many huge retail enterprises operating within a single State would be left outside the act's coverage and much smaller businesses which happen to be operated in more than one State would be subject to the act. Such a result would be discriminatory and inequitable to employees and employers alike.

²⁰ *Carolina Supplies and Cement Co.*, 122 NLRB 88, 90 (1958).

²⁷ *NLRB v. Fainblatt*, 306 U.S. 601, 606-607 (1939); see also *NLRB v. Denver Bldg. Council*, 341 U.S. 675, 684-685 (1951), *Carpenters Union v. NLRB*, 341 U.S. 707 (1951).

²⁸ 353 U.S. 1 (1957).

²⁹ 207 F. 2d 305 (C.A.9, 1953) certiorari denied, 347 U.S. 919 (1954).

Mr. MORSE. Mr. President, I further ask unanimous consent to have printed in the RECORD at this point a memorandum setting forth the record, in outline form, of the National Labor Relations Board starting with 1935 under the old Wagner Act, dealing with retail coverage as it has been applied by the National Labor Relations Board.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

RETAIL COVERAGE UNDER THE NATIONAL LABOR RELATIONS BOARD

1. Wagner Act period, 1935-47: In general on a case-by-case basis, the Board took large retail establishments such as mail order houses, large department stores shipping goods out of State, and interstate chains. Board was cautious during this period owing to its tremendous workload and tight budget.

2. Years 1947-50: Board continued exercising its jurisdiction on a case-by-case basis, but because of Taft-Hartley history, asserted jurisdiction over increasing number of retail establishments in view of Congress desire to protect small employers from union unfair labor practices.

3. October 1950: Board announced for the first time dollar standards as basis for exercising jurisdiction. For retail stores the standard was: \$500,000 direct inflow; \$1 million indirect inflow. (See 15th annual report, p. 5.)

4. July 1954: Newly appointed Eisenhower Board in attempt to take fewer cases contracted jurisdiction. It announced a special standard for retail stores: \$1 million direct inflow; or \$2 million indirect inflow; or \$100,000 direct outflow (19th annual report, p. 4).

"As to intrastate chains of retail stores and service establishments we shall continue the practice of totaling direct inflow, indirect inflow, or direct outflow of all stores in the chain to determine whether any one of these standards is met. If the totals satisfy any one of these standards, we will assert jurisdiction over the entire chain or over any store or group of stores in it as in the past."

5. October 1958: The Board announced new standards greatly broadening the areas of activities covered by the statute. This change was made as a direct consequence of the Supreme Court decision known as the *Guss* case, 353 U.S. 1, (1957). The *Guss* case deprived the Utah State Labor Relations Board of asserting jurisdiction over a case within the commerce clause but excluded by the Board's dollar standards. This case, in effect, established the no man's land problem. In an effort to make the no man's land smaller, the Board announced new jurisdictional standards.

With respect to retail stores the new standard was \$500,000 gross volume of business, i.e., sales (23d annual report, p. 8).

6. September 1959: Landrum-Griffith, section 701, provided that the board could not refuse to take any case which it would have taken as of August 1959. (i.e., the 1958 standards referred to above) the board pursuant to section 701, however, could exercise jurisdiction over a broader sphere of activity.

Thus, in the retail field the Board is required to take jurisdiction over any store having a gross annual business of \$500,000. It may, if it should desire to do so, take jurisdiction over stores doing a lesser amount of annual business.

The PRESIDING OFFICER (Mr. SMITH of Massachusetts in the chair). The time of the Senator from Oregon has expired.

Mr. MORSE. Will the Senator yield me 1 additional minute?

Mr. MUSKIE. I yield 1 minute to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 1 minute.

Mr. MORSE. I wish to point out that I am very much concerned about our not taking a step today which might weaken the Wage and Hour Act itself.

We must not forget, Mr. President, that the amendment talks about enterprise in a single State. There is nothing to stop an organization from incorporating in each State. I know there can be some interesting litigation as to whether such is a subterfuge on the part of an employer, but we must not forget a corporation is a legal entity. A corporation is a person under the law. I warn the Senate today that I can see great confusion and great legal difficulty being stirred up, if the amendment should be agreed to, on the part of employers who are unscrupulous—and unfortunately, there are some. I do not think such will be fair to the competitors. A corporation might incorporate in each State and thereby come out from under the application of the law. This is one legal gimmick we might run into in such a situation.

Mr. President, the Senate has a good bill before it. It has come to the Senate from the committee.

The PRESIDING OFFICER. The time of the Senator from Oregon has again expired.

Mr. MORSE. The great Senator from New York is a spokesman on behalf of the bill, and will make his argument shortly.

In many respects this is a bipartisan bill. I plead with the Senate not to endanger the bill and not to endanger the act by adoption of the amendment offered by the Senator from Oklahoma.

The PRESIDING OFFICER. The time of the Senator from Oregon has expired.

Mr. CARROLL. Mr. President, will the Senator yield some additional time so that I may ask a question of the able Senator from Oregon?

Mr. MUSKIE. I yield 2 minutes to the Senator from Colorado.

Mr. CARROLL. Two minutes will be adequate.

The Senator from Oregon has made a very able presentation of a constitutional question which has been raised by my friend the Senator from Oklahoma. Could anyone deny that there are certain segments of the retail industry of this Nation that are within the stream of interstate commerce?

Mr. MORSE. The courts have made clear that they are within the stream of interstate commerce.

Mr. CARROLL. It is true. We know it from court decisions, and we know it as a practical matter. That being true, there is no constitutional question involved in regard to the bill.

Mr. MORSE. That is the thesis of the argument of the Senator from Oregon.

Mr. CARROLL. I concur 100 percent. The nub of the question relates to what we have done, which is to cover a portion of the retail business, which is

within the stream of interstate commerce, and to put some limitations upon it.

Mr. MORSE. Which we have jurisdiction, as a Congress, to do.

Mr. CARROLL. Exactly, as a matter of policy.

Mr. MORSE. I say further to the Senator from Colorado that I plead in behalf of other industry.

Mr. President, I think every businessman in competition for labor in connection with retail establishments ought to be urging the Congress to support the position which the senior Senator from Oregon and the Senator from Michigan are taking because it will not be fair to other businesses we cover in other sections of the law if we should adopt the Monroney amendment.

This is a case in which we really ought to bring the "big boys," so to speak, under coverage, as we bring in large industry, by using the criteria of \$250,000 inflow and \$1 million annual gross sales as the test for coverage.

I do not think we ought to discriminate as among employers. We ought to be fair to all concerned.

Mr. CARROLL. I should like to ask the Senator from Oregon one further question. In my own State of Colorado there are certain businesses which are not within the stream of interstate commerce.

The PRESIDING OFFICER. The time of the Senator from Colorado has expired.

Mr. CARROLL. Will the Senator yield me one additional minute?

Mr. MUSKIE. Mr. President, I yield 1 more minute.

Mr. CARROLL. Some businesses in Colorado are not within the stream of interstate commerce, and therefore would not come under the provisions of the bill. Those businesses are engaged in intrastate commerce.

Some retail businesses in my State have an interstate connection and would be subject to the provisions of \$250,000 inflow and \$1 million gross annual sales. Those businesses would come under the provisions of the bill.

Mr. MORSE. Under the terms of the bill they would. I think that is only fair and equitable.

The Senator from Colorado has heard me say before, but I repeat, I believe in a uniform application of the Constitution of this country. I believe the workers who are working in the larger establishments, which are in turn in competition with other establishments clearly covered, ought to get the same constitutional protection as those who are covered, for example, in an automobile plant.

Mr. CARROLL. I share the Senator's viewpoint. I commend the Senator.

I know the able Senator from New York will discuss this issue. It is a very simple issue. I know Senators can make it seem to be involved, because lawyers raise questions about the effect on the Constitution, but really this is a very simple issue. It is a question of whether the Congress, as a matter of policy, now wishes to cover the retail field and to protect some workers. This is the basic issue.

I thank the Senator from Oregon.

Mr. MORSE. I thank the Senator from Colorado.

Mr. MUSKIE. Mr. President, I yield 5 minutes to the senior Senator from New York [Mr. JAVITS].

Mr. JAVITS. Mr. President, I should first like to pay my respects to the distinguished argument made by the Senator from Oregon [Mr. MORSE], supplemented by the Senator from Colorado [Mr. CARROLL]. I wish to address myself to that part of the argument of our good friend and proponent of the amendment which deals with the following points:

The Senator from Oklahoma said that we should not throw into the ashcan the historic concept of interstate commerce. He said also that we should not pass a bill because the Supreme Court will let us get away with it. I think this concept of the amendment is one that implies somehow or other the Senate will invoke a rule of interstate commerce which we might get away with in the Supreme Court, and which according to the Senator from Oklahoma, will depart from the fundamental, traditional concept of interstate commerce.

If that argument be valid, it is a very respectable argument and deserves attention. The only difficulty is that the argument is not valid. It is interesting to me that many people who think they are liberal are always talking about turning the clock back. This amendment would turn the clock back about 30 years when we decided this question of policy long ago. We decided that what we talk about with respect to the power of Congress is the power to regulate the facilities and instrumentalities of interstate commerce. Therefore, Congress can regulate anything that can be done in a State, if it is burdening interstate commerce. That question was, as I said, decided over three decades ago.

Why? Because time marches on. There are department stores in the State of New York that are several times as large as some chains which the amendment of the Senator from Oklahoma would reach. We cannot tell the people in the State of New York that there is no competition for retail business in New York from the retail stores in Newark, N.J., in Greenwich and Stamford, Conn. We cannot tell the people of Kansas City, Mo., that there is no competition for the retail business there from Kansas City, Kans. We cannot tell the people of Philadelphia that there is no competition for retail business there from the stores in Camden, N.J.

In short, the dynamics of commerce have been such as to require the courts to keep up with the times.

What is the genius of the Constitution? The genius of the Constitution is that it is an instrument which can deal with what happens, notwithstanding the fact that some 178 years ago no one dreamed that it would happen. That circumstance is what makes the Constitution a great instrument. Do I hear Senators who advocate agreement to this amendment inveighing against the Sherman antitrust law? Will they tell us that we cannot prosecute someone for price fixing when they do an enor-

mous business in the State of New York with goods passing into the State of New York from other States, even though it comes to rest in the State of New York, when such price fixing would affect the price of goods all over the United States? Will they argue that such is not the case?

What is the difference between burdening interstate commerce on questions of labor, including the picket lines of which my friend speaks, and burdening interstate commerce by paying sweatshop wages? In some States sweatshop wages are paid, and the goods sold in such States compete with other retail goods which cross State lines.

If one wishes to appeal to the law, the cases on the point sustain the view I urge. We are not trying to get away with anything in terms of what the Supreme Court might do. It is always well to read the original law. The Constitution does not contain the words used in the present argument. The Constitution provides, "to regulate commerce." Mind that word—"regulate." That word has not been mentioned here.

The provision of the Constitution is "To regulate commerce with foreign nations, and among the several States, and with Indian tribes."

"To regulate" means to deal with those aspects of commerce which represent an impediment or burden upon it.

It is said by Senators in a sweeping way—and where they get it I do not know—in respect to the Supreme Court, "Why, if the Supreme Court goes along with the bill, then the Federal Government can regulate anything."

I doubt very much that any lawyer so believes. Anyone who reads the cases knows how often the Court has reversed on the ground of absence of the interstate commerce qualification for jurisdiction.

The PRESIDING OFFICER. The 5 minutes allotted to the Senator from New York have expired.

Mr. JAVITS. Mr. President, may I have 5 additional minutes on the bill?

Mr. MUSKIE. I yield 5 minutes.

Mr. JAVITS. I quote from the famous *Jones and Laughlin* case (301 U.S. 1, 1936), a landmark decision in which it is made clear that not everything is interstate commerce. There are many activities which the Court will feel free to strike down as being intrastate commerce.

The Court stated that it has the right under the commerce clause to deal with commerce. I quote now from 301 U.S. 1, page 40, of the *Jones and Laughlin* case, citing with approval the first *Coronado* case:

If Congress deems certain recurring practices, though not really part of interstate commerce, likely to obstruct, restrain, or burden it, it has the power to subject them to national supervision and restraint."

In short, what the Court affirmed in the *Jones and Laughlin* case gives us the key, because the concept is picked up in the committee report on the present bill, the Court said:

The question is necessarily one of degree.

For future interpretation, such is the scheme of the proposed legislation. The

question is one of degree. I shall ask to have printed in the RECORD citations of a series of cases which hold that the fact that Congress has legislated in the field of interstate commerce in any area, and that would include minimum wages, does not mean that it has exhausted its power under the commerce clause to legislate further—*Kirschbaum v. Walling* (316 U.S. 517), *Walling v. Jacksonville Paper Co.* (317 U.S. 564), *10 E. 40th St. Bldg. v. Callus* (325 U.S. 578), and *Phillips v. Walling* (324 U.S. 490). Congress had the power to regulate retailing coming under the commerce clause in terms of minimum wages when it passed the first minimum wage bill. It did not choose to do so. By this pending legislation Congress could choose to do so now to a limited extent.

It can choose to regulate now certain retailing activities which qualify as being in commerce and which meet certain economic criteria. Such regulation does not mean that we are trying to expand the power of Congress by changing the interstate commerce clause for we could not if we would.

The committee report is clear on this matter. The report states on page 4:

Extension of retail coverage—the major thrust of the committee bill—is tied explicitly to the criterion of the enterprise engaging in commerce or in the production of goods for commerce.

That sentence ties into the sentence on page 5 of the committee report which states:

The million dollar test is an economic test.

In short, we have available more power than we are exercising in terms of the commerce clause. We are choosing to exercise only so much.

I respectfully submit, therefore, we are not tampering, we are not destroying the historic concepts, for the facts of economic life compelled us to establish our concepts some three decades ago.

Is anyone going to argue that the labeling regulations under the Federal protection of the Food and Drug Act are unconstitutional? The cases have been decided to the contrary. (See *U.S. v. Sullivan*, 332 U.S. 689, 1948).

The 85th Congress legislated (Public Law 85-506) that certain information for prospective purchasers shall be kept posted on new automobiles prior to their sale to the ultimate consumer—and which have come solidly to rest, all 4,000 pounds' worth, in the dealer's showroom. Does anyone contend that such an act is not a valid exercise of congressional power? Of course not.

In short, the argument is one made for the occasion. What the Senator from Oklahoma wishes to do is this. He does not like the measure of adding 4 million newly covered employees. He does not like the measure of covering employees of a big establishment located in an individual State. He wishes to cut new coverage to say 2½ million employees, and to make it economically applicable to establishments in more than one State.

We can vote for or against the amendment, but I do not see where the argument has anything to do with the fundamental constitutional power.

Mr. MONRONEY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MONRONEY. The Senator spoke of the exploitation of department stores in New York. Will he be good enough to tell the Senate if there is a minimum wage law in the State of New York?

Mr. JAVITS. There is a minimum wage of \$1. I should like to add that if we had many States like New York, we would not be here. New York competes with those other States which do not have minimum wage laws, and that is one important reason why I am for the bill.

Mr. MONRONEY. New York competes on the basis of a dollar an hour, but if the people in my State wish to buy goods of Oklahoma, they are not necessarily damaged by what is paid in New York. I can follow the logic of the Senator from New York that manufacturing goods moving in interstate commerce at a low wage level in the State has a definite deleterious effect on the general wage level. But I am rather hard put to gather the great interstate commerce complex any more than I can quite agree with the Senator in respect to the Automobile Labeling Act. I should like to read page 4, section 7:

Every manufacturer or importer of every automobile distributed in commerce * * * to the windshield of such automobile a label.

Following this act, any broker—this is not the dealer, in placing the label on the car, has nothing to do with the dealer putting the label on or trying to enforce it.

I do hope that the references of the Senator from New York are a little more accurate on the other phases of the constitutionality of the bill than the ones he has recently quoted.

Mr. JAVITS. I should like to answer both points, if I may. I shall answer the latter point first. The Senator only bears out precisely what I said, that we can pass a law which will protect a label from being removed or altered by anyone, though that automobile, all 4,000 pounds worth, is at rest upon the dealer's floor in a particular State and is not moving anywhere. That is precisely the argument, and it bears out precisely my constitutional point.

As to the competition, we have, for example, 14 million visitors who come to New York City every year. Those visitors are at liberty to shop in any store in New York City. What we are asserting here is a fundamental economic concept that we want the underlying basis of competition throughout the United States to be at a certain minimum wage when applied to units of a certain economic size.

Again I respectfully submit that this is not an exercise of a new power but of the thrust of our legislation.

Mr. MONRONEY. I should like to ask the Senator one more question. Just what businessman in the United States will not qualify under the \$1 million test, and, with particular reference to retailing, to the \$250,000 movement of goods in interstate commerce, so far as coming under the act is concerned?

Mr. JAVITS. The Senator from Oklahoma has himself outlined what retailers will not come under the act. There are millions of employees who are excluded by the economic test. Then we have the traditional concept of intrastate commerce. There are millions of people who do not engage in business in which there is material transported across State lines. Let us take, for example, the traditional shoeshine parlor. I do not wish to be ridiculous about this. However, let me say to the Senator from Oklahoma that the bill does not make any change in the constitutional concept, even though we exercise our economic power to apply the act to particular businesses. In the case of some unusual shoeshine parlor, if it buys an appreciable quantity of supplies, and those supplies move across State lines, and its annual dollar volume is over a certain amount, then that shoeshine parlor could be subject to the act—there are many service and retail businesses which will not come under that category.

Mr. MONRONEY. I am glad to hear that even a shoeshine parlor, if it is big enough, can come under the provisions of the proposed act, whether it operates in one State or in more than one State.

Mr. MUSKIE. Mr. President, I yield 10 minutes to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the arguments presented in support of the pending argument are presented, first, on constitutional grounds; second, on economic conditions; and, third, on what might be regarded as the fear of congressional capriciousness in the future.

I have tremendous admiration for the scholarly junior Senator from Oklahoma. However, I wish to say that in this matter I believe he predicates his presentation largely on the presumed danger of rewriting the entire definition of the congressional concept of interstate commerce, implicit in the pending measure.

In these matters many Senators, including the senior Senator from West Virginia, generally lean on those Senators who have legally trained minds for a proper exploration of the constitutional issues involved in the present question. However, I remind the Senator from Oklahoma and other proponents of his amendment that the grounds for the persuasive and knowledgeable plea of the senior Senator from Oregon [Mr. MORSE] have not been altered since they were delivered by him on the floor of the Senate on last August 18. I noted with approval the vigorous manner in which he repeated those arguments this afternoon.

The Monroney amendment would ignore a lengthy history of Supreme Court decisions regarding the meaning of the interstate commerce clause.

In view of this insufficiency, it would be most inadvisable to accept an amendment which would offer such a substantial departure from previous congressional actions as embodied in the National Labor Relations Act of 1935 and the amendments of the Taft-Hartley Act in 1947. In that legislation Congress

provided language that the Supreme Court has repeatedly applied in decisions which are not reconcilable with the Monroney amendment.

In point of fact, the enterprises covered by H.R. 3935 are already considered, and have been so for many years, as affecting commerce. The pending bill, as reported by the Senate Labor and Public Welfare Committee, would recognize this fact and extend its application to the question of fair labor standards—as it has been applied frequently over the years to the question of strikes and labor-management relations. The assertion by the junior Senator from Arizona in the debate of last year that the then Senator Kennedy's argument suggested that wages also affect the flow of commerce was not as logical as it may have sounded. The argument then and now suggests nothing of the sort. To apply a colloquialism, it brings the same sauce to the gander of fair labor standards that we have had for the goose of labor-management conflict. Contrary to the assumptions of those who would support this amendment, it is the Monroney amendment, rather than the bill as reported by our committee, that would offer a departure from the current and prevailing interpretation of the interstate commerce clause.

To turn now to the second argument, Mr. President, the question of what this body means by interstate commerce is an economic and semantic one, not a constitutional issue. And though the dividing line between interstate and intrastate commerce is sometimes clouded, the question is subject to factual and semantic determination. For practical purposes the committee bill establishes, with some exceptions, the definition of "engaged in commerce or in the production of goods for commerce" as any retail or service establishment with gross sales of \$1 million or more.

This definition has the precedent of 26 years of application in other areas of congressional action. It is not economic heresy to apply it here. The application is simply an acknowledgment of the changing nature of our economy and of the fact that the enterprises covered by this measure, grossing the figures stipulated in the bill, are necessarily involved in the intricate web of economic relations that characterize interstate activity.

This application is especially valid, Mr. President, in view of the growth of many metropolitan areas which spread over State boundaries. In these areas, there are many large retail establishments which have but one physical location in one State but which have a high level of interstate commercial activity in any meaningful sense of the term. Particularly is this so of the so-called "quality" stores which have a substantial mail-order business from charge customers scattered through several States. Without the gross volume definition proposed by the committee bill I can foresee the possibilities of a veritable rash of court cases to determine whether or not such enterprises are engaged in interstate commerce. H.R. 3935 offers a clear and measurable definition for avoiding this kind of ambiguity. And though it is not without its own difficul-

ties, I believe they are less cumbersome and complex than those embodied in the proposed Monroney amendment.

In this respect, I remind the junior Senator from Oklahoma and the proponents of his amendment of the argument advanced in previous debate to the effect that the Monroney amendment might well stimulate the evasive tactic of establishing different corporations in different States while retaining control under a single management. In view of our experience in the enforcement of antitrust laws, this is hardly an academic or trivial question.

The problem of policing such evasions and the difficulty of penetrating the variety of devices which might be employed are not pleasant to contemplate.

I recall, for example, the experience in my own State of West Virginia during the 1930's when the legislature passed a chainstore tax. Corporate distributors of petroleum products immediately devised a scheme of leasing their service stations to individual proprietors, thereby circumventing the tax legislation, yet retaining their essential market control and profit recovery.

Mr. MUSKIE. Mr. President, I yield an additional 2 minutes to the Senator from West Virginia.

Mr. RANDOLPH. Finally, Mr. President, I refer to the fears expressed by some concerning the inherent danger of establishing a dollar volume as the criterion of interstate commerce. If the present Congress is free to establish \$1 million as the cutoff figure, what, it is argued, is to prevent a future Congress from lowering this figure to \$500,000 or even \$250,000? Or conversely, what is to prevent a future Congress of a more conservative cast from raising the figure to \$10 million? I am somewhat baffled, when such questions are posed, by the assumption that the danger of legislative folly rests with some future Congress, never with the present one.

The expression of such concern is not unknown to those of us who served in Congress during the active days of the New Deal. The view is usually implicitly, if not explicitly, maintained that we—whether in 1935 or in 1961—exercise wise and prudent judgment, but let us not pave the way for the "wild men" of the future to lead the Republic down the road to ruin.

In answer to this argument, Mr. President, the collective wisdom of future Congresses will probably be maintained at about the level of our own. Though Senators are not inoculated against the general foibles and fallibilities of human nature, the history of this body would indicate that we have maintained a respectable level of political and social responsibility. I see no reason to fear that this record will be substantially altered by future Congresses—least of all, in regard to the pending measure.

Certainly, in light of a fairly consistent and long-term movement toward a higher unit level of business activity and a rise in the cost of living, there is little likelihood that a future Congress will lower the cutoff figures proposed by this measure. Nor, in view of the political

realities and the general history of such legislation, is there much probability that these figures will be substantially raised.

Much probability that the figures will be substantially raised. With all these considerations in mind, I urge disapproval of the Monroney amendment.

Mr. PROUTY. Mr. President, will the Senator from Maine yield time to me?

Mr. MUSKIE. I yield 3 minutes to the Senator from Vermont.

Mr. PROUTY. I desire to have the attention of the distinguished Senator from Oklahoma. I am not certain that I fully understand the implications of his amendment. Let me pose a question. Suppose two small stores are located on the border between two States. They are both owned by an individual owner, one in State A, the other in State B. An annual business of, say, \$50,000 is done in each store. Under the Senator's amendment, would these stores be covered by the Fair Labor Standards Act?

Mr. MONRONEY. If they do business in two States, they will be covered, and they would be covered by the minimum wage provision. But if they are making only \$250,000, I think all stores, under the exemption written in for the chainstores, by the grace of the committee, would perhaps be exempt.

Mr. PROUTY. That is the point I wish to bring out.

Mr. MONRONEY. The Senator is not asserting, is he, that my amendment changes the rule?

Mr. PROUTY. Even if the Senator's amendment is adopted there will be a \$250,000 limitation which follows the same principle as the \$1 million cutoff in the committee bill. Many Senators who are concerned about the dollar limitation support the amendment of the Senator from Oklahoma, but his amendment does not alter the basic concept to which they object.

Mr. MONRONEY. The committee has provided for the \$250,000 amount.

Mr. PROUTY. I understand; but suppose the two stores do \$250,000 worth of business, \$125,000 in each store. Another store doing \$1 million worth of business in one State will be excluded, but two stores doing \$250,000 worth of business in two States would be covered, under the Senator's amendment.

Mr. MONRONEY. That is correct. Woolworth's, doing \$100 million business with many stores, can be completely exempt if they restrict the suburban shops to \$250,000. But the man who operates a family department store in the decaying part of the town, and doing \$100,000 worth of business, will come under the act.

Inconsistencies can be found in both instances. I believe my amendment will help to eliminate more of the inconsistencies than will the committee bill without my amendment.

Mr. PROUTY. Congress cannot by itself amend the commerce clause of the Constitution. It has no right or authority to do so. I think everyone is agreed on that point. Some persons have said that they would vote for the committee bill if the \$1 million limitation were in-

cluded and they had assurance that it would remain in the law for a long time in the future. No one can give assurance to that effect. The next Congress may change the entire concept of the law.

I will concede that there are certain features of the bill concerning the wisdom of which I have some doubt. However, as one with a business background, I think I am in a position to say that many businessmen do not even realize there is a commerce clause in the Constitution—or at least they did not realize it until their lawyers informed them that the clause might furnish a basis which would justify their exclusion from the ambit of the bill.

When the cloak is cut away and we get down to the body of their argument it is the touching of the pocketbook that concerns them. There is no question about that, so far as the average businessman is concerned.

I think we must recognize also that the same is true of some people in organized labor. They are not concerned basically with the principle involved; they are concerned with the dollars-and-cents problem.

I would respectfully point out that the Senator's amendment, while good in many respects, will create serious inequalities. It will make it difficult, I think, for the small businessman who operates in two or more States, to continue his business; but at the same time the amendment will allow the big intrastate chains or intrastate organizations, which do a multimillion dollar annual business, to escape coverage. There are a great many examples of giant intrastate chains throughout the country.

Mr. MONRONEY. Mr. President, will the Senator from Vermont yield?

Mr. PROUTY. I yield.

Mr. MONRONEY. Does the Senator contend that a \$250,000 input for a retail store doing a business of \$1 million or more meets the test of interstate commerce?

Mr. PROUTY. I do not think we can assume or maintain that simply because a company does a \$1 million volume of business, it is engaged in interstate commerce. Only the courts can decide that question. We simply say that a business which has \$1 million business volume and receives goods across State lines can and should be brought under the minimum wage law.

Mr. MONRONEY. I think the purpose of providing for a \$250,000 input of goods moving in interstate commerce was specifically—

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired.

Mr. MONRONEY. Mr. President, will the Senator from Maine yield additional time to me?

Mr. MUSKIE. I yield the Senator 2 minutes. We are running short of time.

Mr. DIRKSEN. I yield 5 minutes to the Senator from Oklahoma.

Mr. MONRONEY. The \$250,000 input has been advertised as bringing such a business completely under interstate commerce.

Mr. PROUTY. I think it adheres to the principle behind the commerce clause quite closely.

Mr. MONRONEY. Will the Senator state why the \$250,000 input is not applied to laundries or gasoline establishments?

Mr. PROUTY. In the first place, I think they are entirely different operations. They are a much different type of operation from a retail store business. The cost of operation is considerably less, on the whole. The difficulty in the retail store business is that it is not operated on a production-line basis. Its employees stand around, waiting on customers, if customers are in the store. However, the employees are paid and remain on duty even if there are no customers.

I think there is a great difference between the various types of operation; and that is the reason for the variation. I may concede that the Senator could make a strong point and could say that the same cutoff point should be used for all.

Mr. MONRONEY. I think there is a great deal of inconsistency in the position that a \$250,000 input should be applied to retail stores but not to those in the other categories.

Mr. PROUTY. I would be willing to apply the inflow test to industries other than the retail and service trades but I put in the bill what the committee would take; and that is as far as one can go.

Mr. MORSE. Mr. President, will the Senator from Oklahoma yield 30 seconds to me?

Mr. MONRONEY. Yes, if sufficient time remains.

The PRESIDING OFFICER. Five minutes remain.

Mr. MONRONEY. Then I yield.

Mr. MORSE. I merely wish to state to the Senator from Vermont that of course the legal test in regard to the inflow, insofar as interstate commerce is concerned, is whether the inflow is more than de minimis. Certainly any amount above \$50 would be a substantial amount, not a de minimis amount. Similarly, when we are dealing with concerns which do an annual business of \$250,000 and when we are considering whether the annual volume of sales amounts to \$250,000 or to \$1 million, we are no longer dealing with de minimis amounts.

So, from my knowledge of constitutional law, I think there is no question that business in any such amounts is sufficient to bring the concerns under this coverage.

Mr. MONRONEY. Mr. President, let me ask whether any time remains available to me.

The PRESIDING OFFICER. Three minutes remain available to the Senator from Oklahoma.

Mr. MONRONEY. I should like to sum up my case for the amendment.

Mr. DIRKSEN. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

Mr. MONRONEY. I thank the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 2 additional minutes.

Mr. MONRONEY. Mr. President, as a result of my years of service in the House

of Representatives and in the Senate, I believe I can tell when Senators feel they are being pushed beyond the limits to which they wish to go—as I believe they are today when somewhat exotic reasoning would seem to be changing what all of us have long considered to be the historic concept of interstate commerce, and certainly at least the one which has been observed by the courts; namely, the movement of goods between the States. I think there is nervousness about this bill among Senators, because the Senate is supposed to be the constitutional guardian of the liberties of the people.

So, Mr. President, after we finish reading all of the definitions contained in it, the various provisions which are included in an effort to specify what businesses are covered by this bill—I refer to the provisions in regard to sales of not less than \$1 million, sales of not less than \$350,000, sales of not less than \$250,000, "input volume," and all the rest—we become even more nervous when we discover the committee felt the need of the proviso beginning in line 18 on page 15:

Provided, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce, or a part of an enterprise engaged in commerce or in the production of goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner.

This is the only limit we are sure to have—namely, that this Federal law will not apply to a business which has as its only employees the owner and his wife and their children. But all other businesses are liable to be covered by this law.

In Oklahoma there is a saying that is applicable here: "It is not just that the chickens are nervous; there is someone in the henhouse."

Mr. COOPER. Mr. President—

Mr. MUSKIE. I yield 3 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 3 minutes.

Mr. COOPER. Mr. President, I intend to vote against the Monroney amendments, and I should like to state briefly my reasons for doing so. I do so for one reason, because the amendment departs from the concept of interstate commerce.

I agree that Congress has a perfect right to decide, as a matter of policy, that it does not wish to have retail and service enterprises or other enterprises included under the Wages and Hours Act. But it is a mistake to say that this amendment protects the historic concept of interstate commerce. To the contrary, it proposes a new concept.

I believe I am correct in saying that the correct concept, for the purpose of the Wages and Hours Act, of a business engaged in interstate commerce is one whose employees are actually engaged in handling or working on goods in commerce between the States—in the stream

of commerce—or, as the courts have held in the production of goods for commerce, in activities substantially affecting commerce, or, under the cases, are necessary to the production of goods for commerce. These terms, except affecting commerce, are found in the act.

I believe that my friend, the Senator from Oklahoma, is attempting to establish, in place of these prevailing tests—a new definition of an enterprise engaged in interstate commerce.

His amendment proposes the test of ownership—the ownership of establishments in two or more States.

I am sure that no court has held that the mere fact of ownership of enterprises in different States places them in interstate commerce. They might not be engaged in any way in interstate commerce—that is producing, or handling in any way, goods in commerce, necessary to or affecting commerce.

I have respect for the idea that, as a matter of policy, the Congress can exclude certain activities from wage and hour coverage, but I believe I am correct when I say that there is no constitutional concept upon which the Senator's amendment can be based. There are other reasons for which I oppose the amendment—the inequities it would promote—but I wanted to give my views of its legal merit.

Therefore, Mr. President, I shall vote against the amendments of the Senator from Oklahoma.

Mr. MANSFIELD. Mr. President, on the question of agreeing to the amendments of the Senator from Oklahoma, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, has all time available on these amendments been used?

The PRESIDING OFFICER. That is correct.

Mr. MANSFIELD. Then, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendments of the Senator from Oklahoma. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. YOUNG of North Dakota (when his name was called). On this vote I have a pair with the distinguished junior Senator from Virginia [Mr. ROBERTSON]. If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Idaho [Mr. CHURCH] is absent on official business.

I also announce that the Senator from Virginia [Mr. ROBERTSON] is absent because of illness.

I further announce that, if present and voting, the Senator from Idaho [Mr. CHURCH] would vote "yea."

Mr. KUCHEL. I announce that the Senator from Wisconsin [Mr. WILEY] is absent because of the death of his brother.

The Senator from New Hampshire [Mr. BRIDGES] is absent because of illness in his family.

The result was announced—yeas 39, nays 56, as follows:

[No. 33]

YEAS—39

Allott	Eastland	McClellan
Beall	Ellender	Monroney
Bennett	Ervin	Morton
Blakley	Fulbright	Mundt
Butler	Goldwater	Russell
Byrd, Va.	Gore	Saltonstall
Capehart	Hickenlooper	Schoeppel
Carlson	Hill	Smathers
Case, S. Dak.	Holland	Sparkman
Cotton	Hruska	Stennis
Curtis	Jordan	Talmadge
Dirksen	Kerr	Thurmond
Dworshak	Lausche	Williams, Del.

NAYS—56

Aiken	Hart	Metcalf
Anderson	Hartke	Miller
Bartlett	Hayden	Morse
Bible	Hickey	Moss
Boggs	Humphrey	Muskie
Burdick	Jackson	Neuberger
Bush	Javits	Pastore
Byrd, W. Va.	Johnston	Pell
Cannon	Keating	Prouty
Carroll	Kefauver	Proxmire
Case, N.J.	Kuchel	Randolph
Chavez	Long, Mo.	Scott
Clark	Long, Hawaii	Smith, Mass.
Cooper	Long, La	Smith, Maine
Dodd	McCarthy	Symington
Douglas	McGee	Williams, N.J.
Engle	McNamara	Yarborough
Fong	Magnuson	Young, Ohio
Gruening	Mansfield	

NOT VOTING—5

Bridges	Robertson	Young, N. Dak.
Church	Wiley	

So Mr. MONRONEY's amendments were rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendments were rejected.

Mr. MORSE. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. SMATHERS. Mr. President, I call up my amendment designated "4-18-61—C".

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 14 it is proposed to strike out lines 20 to 25, inclusive.

On page 15, line 1, strike out "(3)" and insert "(2)".

On page 15, line 4, strike out "(4)" and insert "(3)".

On page 15, line 10, strike out "(5)" and insert "(4)".

On page 15, line 14, strike out "(6)" and insert "(5)".

On page 18, line 18, strike out "(3), or (5)" and insert "or (4)".

On page 18, lines 19 and 20, strike out "(4) or (6)" and insert "(3) or (5)".

On page 24, line 19, strike out "(1), (2), or (5)" and insert "(1) or (4)".

On page 24, line 20, strike out "(4)" and insert "(3)".

On page 29, lines 23 and 24, strike out "(except an establishment in an enterprise described in section 3(s)(2))".

On page 30, line 7, strike out the word "commercial".

On page 30, line 8, beginning with the word "Provided", strike out through the colon in line 14.

Mr. SMATHERS. Mr. President, I shall be very brief. On the amendment I shall use only 6 or 7 minutes, if that long. I say this for the benefit of Senators. Thereafter I should like to have a yea-and-nay vote.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SMATHERS. Mr. President, I think the committee very wisely recognized the fact certain types of businesses, called service businesses, should not be covered by the Federal minimum wage and maximum hours law. For that reason the committee left out hotels, restaurants, and motels. These belong to the service industry, which is not yet ready to assimilate increased costs and stay in business. I think the committee was wise in doing so.

However, I believe the committee should also have left out another type of service business, which is the laundries and drycleaning establishments.

I think it can be well established that laundries are in the lowest income category insofar as businesses are concerned. Mr. President, the American Laundry Institute states that laundries have less than 2 percent return on their net investment. To say it another way, less than 2½ percent of their total volume of sales is represented by profits.

Laundries are going out of business at a very rapid rate. The Labor Department has stated that from 1947 to 1960 60,000 jobs which previously had existed and were held by laundryworkers no longer existed because the laundries themselves were no longer in existence.

At a time when there was a total employment increase of some 17 percent, there was a loss of 16 percent of jobs in the laundry industry, because laundries were going out of business. From 1954 to 1958, in 33 of the 50 States, there was a 23 percent loss of job opportunities in laundries and retail drycleaning establishments.

An example of what happens when one sets a minimum wage and maximum hours law in a marginal business such as this occurred rather dramatically last year in the State of North Carolina, when, for the first time, the State passed a State minimum wage law and set the minimum wage at 75 cents an hour. The law had been in existence only 7 months when 1,300 people lost their jobs.

The 1,300 people lost their jobs because some 200 small laundries had to go out of existence.

Mr. President, I know all Senators would like to see workers receive higher wages, if they can reasonably and sensibly be had, but I certainly think we do

not wish to pass a law and to direct it at a particular industry when it will result in decreasing jobs people may get. Surely, as had been said, 75 cents or 85 cents an hour hardly seems enough to keep body and soul together, but certainly, Mr. President, all of us would agree that 85 cents an hour for laundry work is better than no cents an hour. Eighty-five cents an hour will buy a great deal more in the grocery store than no cents an hour. There is a great deal more human dignity and a great deal more hope for the individual who has a job even at such a low figure as 85 cents an hour, rather than to have no job at all, to be on relief, without help and without hope.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield to the able Senator.

Mr. PASTORE. Was this amendment considered by the committee?

Mr. SMATHERS. I am not sure that the amendment was considered by the committee.

Mr. PASTORE. I ask the question because the Senator from Florida is making a very persuasive and very dramatic argument. I wonder if the statistics have been authenticated and if they are true. I have no reason to doubt them. The question I ask is, Why did the committee not consider the amendment and include it in the bill?

Mr. SMATHERS. The distinguished chairman of the Committee on Labor and Public Welfare [Mr. HILL] tells me the amendment was not considered by the committee.

There are many reasons why laundries are having difficulty. Obviously, one is automation and work at home. There are washing machines and drying machines which can be used. People will not take their clothes to the corner laundry if the cost is too great, because if the service is too costly it is a service which they themselves will do.

On top of that, by virtue of the increased cost of operating laundries—particularly in North Carolina, which has the minimum wage, where marginal workers cannot be hired and workers cannot supplement incomes by getting second jobs—the laundries have to try to increase their prices for the clean clothes which they deliver, with the result that the minute the laundries raise prices a little bit the people say, "We will not use your services any more. We will go to the coin-operated washing machine down the street."

All Senators are able to ride around the neighborhood areas and see coin-operated laundries, with nobody working but the machines. It is no wonder that in many ways the laundries are going out of business.

The particular amendment I have offered would not roll back the law beyond those workers covered at the present time. The only thing sought is no extension of the coverage. The purpose of the amendment is to delete those provisions of the pending bill which would extend the coverage to workers in the laundries and dry cleaning industry.

There is one exception, which relates to the proviso offered by the able Senator from West Virginia, which was designed to remove a serious inequity under the present law relating to laundries operating where State laws cut through a local trading area, such as the District of Columbia.

In this instance, the Randolph amendment provides that any establishment having an annual dollar volume of sales of \$250,000 or more and which is engaged in substantial competition in the same metropolitan area with an establishment covered by the minimum wage law, it would lose its exemption. I think the purpose of the amendment is sound, and support it. With this exemption, my amendment seeks only to retain the status quo of existing law.

Existing law exempts all laundry and dry cleaning establishments where more than 50 percent of their annual dollar volume of sales is made within the State in which the laundry or the dry cleaning establishment is located, provided, however, that not more than 25 percent of the establishment's dollar volume of sales for such services is received from customers who are engaged in mining, manufacturing, transportation, communications business.

Under the pending proposal of the so-called McNamara bill, a laundry or dry cleaning establishment would be covered if it does \$1 million or more in annual sales exclusive of excise taxes, or if more than 25 percent of its annual dollar volume of sales is from services rendered to commercial businesses regardless of the total annual volume of sales.

There is no definition as to what are commercial "businesses."

So I presume we can assume that any establishment in which one can buy or sell is a commercial business. The local hamburger stand, the local beer parlor, and the local restaurant, or whatever it may be, are commercial businesses.

Under the particular provision to which my amendment refers, if the small laundry were doing more than 25 percent of its business with commercial businesses, whether it be a hamburger stand or some similar business, then such laundry would lose its exemption regardless of whether the total volume of business was \$25,000, \$35,000, or \$500,000. The \$1 million volume has no application in this respect. Adding the word commercial would do a serious injustice to many small laundry and dry cleaning establishments that cannot stand any further increase in operating costs.

My argument is that if we bring all of these businesses in at one time, whether they are doing \$35,000, \$50,000, or \$100,000 worth of business, the result would deliver a real body blow to small business in America.

We talk a great deal about how we are all for small business. Laundries are primarily small and local businesses. The bill is a solar plexus blow to the small business community. Not only will we see many jobs lost at a time when we do not wish to increase unemployment in the country, but also the spendable income of the people of the

United States will be lessened to the extent that people employed in this industry will lose their jobs. We will thereby stagnate our economy.

We may find that much revenue will be lost to the Treasury.

Adding the word "commercial" to existing law will cover many small laundries that cannot absorb increased costs. As a result more unemployment will be created, less revenue will be brought in, and small business will be hit where it cannot stand it.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. PASTORE. Will the Senator concede that if an establishment is doing less than \$1 million a year gross business but is doing business with commercial firms, would not such establishment be excluded from that group of people to which the Senator has referred who go down to the corner, put a quarter into a machine, and do their own washing? We would not expect a hotel or restaurant that sends its soiled linens to a cleaning establishment or a laundry to install its own washing machines or go to the corner and put quarters into some public laundromat.

Mr. SMATHERS. I believe I could agree with the Senator on that point.

Mr. PASTORE. If we do exclude those establishments that are doing a business of \$1 million a year, and we exclude those doing a business—

Mr. SMATHERS. We would include those doing a business of over \$1 million.

Mr. PASTORE. We do include them. The Senator is correct. We exclude everyone whose business is under \$1 million a year.

Mr. SMATHERS. Except if more than 25 percent of their business is done with so-called commercial businesses. As I have said, there is no definition of "commercial businesses." In this case they are covered regardless of whether their total volume of sales is over or under \$1 million.

Mr. PASTORE. Does not that provision refer to anything except a home?

Mr. SMATHERS. The fact of the matter is that in the communities of Rhode Island, and Florida, local suburban laundries take in every bit of business that they can get. The business that suburban laundries get from families is rapidly decreasing because people are buying washing machines. But the representatives of such laundry establishments would then go to neighborhood restaurants and say, "I would like to wash your table cloths." They would go to the beer parlor and say, "We would like to wash the bartenders' aprons."

I suppose that such establishments get every bit of business they can get. It is essential to their survival.

Mr. PASTORE. My question is why a laundry doing business with a restaurant, a hotel, or a hamburger stand should not pay its help more than \$1 an hour?

Mr. SMATHERS. For the simple reason that if we should force them to do so, and if we require them to pay \$1 an hour, what will happen will be similar to that

which happened in North Carolina. The laundries will have to close their businesses because they cannot pay the increased cost and render service at a price the public is willing to pay. I spoke on this point earlier. Such businesses have only a 2-percent margin of profit. If they are required to pay the higher scale, for all practical purposes we shall thereby place a "closed" sign over their doors. Today, between 60 and 65 cents of every dollar in this industry goes for labor costs.

Earlier I said I thought it was much more dignified to have a fellow make 95 cents an hour than to go on relief.

Mr. PASTORE. I agree with that statement, but the only point that was disturbing me was the fact that a number of large laundries and dry cleaning establishments are doing business with commercial firms. In many instances they are taking advantage of the situation. In many instances in which such establishments could afford to pay \$1 an hour they are not paying \$1 an hour. I thought the exemptions that were being made by the committee were reasonable enough to avoid the shutting down such a laundry, and business might be lost only for the reason that families would buy washing machines and people who presently send their soiled clothes to the laundry will go to the laundromat and insert quarters in the machine in order to do their own washing.

Mr. SMATHERS. Certainly if a man can pay \$1.25 and still run his business, he ought to do so. I think that point has been pretty well demonstrated. But the very fact that laundries are a disappearing business industry from the face of our economy and the very fact, as I cited a minute ago, that we have had a 23-percent loss of jobs in laundries is a pretty good demonstration of the dilemma of the financial straits of laundries. The pending proposal will result in destructive competition and is unfair, discriminatory and arbitrary to this industry. I merely say that it is one sure way to eliminate them and to do so awfully fast. If laundries are eliminated in this way, additional unemployment obviously will be created.

Mr. PASTORE. I recognize the fact that laundromats have cut into the laundry business. I recognize the fact also that in many cases in which the contact was largely with households, there has been a great decrease in business. But I am speaking now of laundries that are doing business with, let us say, barber shops, restaurants, and such types of business. I cannot for the life of me understand why such laundries cannot pay a wage of \$1 an hour.

Mr. SMATHERS. Mr. President, the reason why they cannot pay a dollar an hour is because they cannot pay a dollar an hour and make a profit doing so. On the average, 65 percent of a laundry's income goes for labor costs. I do not know how much they pay for soap or advertising. I do know that so far as the cost of labor is concerned, that is what they have to pay. While there is some automation in some laundries, there is not a great deal of it. Most of

it is done by hand and by sweat. A great many people like this kind of work. The committee would blanket them all into the \$1.25 category. Perhaps in Rhode Island the laundries can pay that wage. We have statistics which show that in Boston on the average the laundries there cannot pay that amount and stay in business. They cannot pay it in Cleveland, either. In some areas they are already paying \$1.25 because they can afford to do it. It is being unrealistic to think that the pay scale must be identical all over the country.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield to the distinguished majority whip.

Mr. HUMPHREY. If there is a shortage of time, we will adjust it on both sides.

Mr. SMATHERS. I have about completed my statement.

Mr. HUMPHREY. According to the committee's analysis, there are about 465,000 so-called nonsupervisory laundry employees in laundry and drycleaning enterprises throughout the country. The bill to which the Senator from Florida would attach his amendment would extend the protection of a dollar an hour for the first year, \$1.05 for the second year, \$1.15 for the third year, and, after 40 months, \$1.25. The committee provision would extend protection to 134,000 of these workers, leaving 431,000 still under State law or still with no protection at all. Approximately 6,000 workers are involved in the so-called commercial 25 percent factor, which is included in the committee bill under section 13(a), subsection 3. The Senator's amendment seeks to eliminate that provision, and also seeks to remove from the provisions of the wage-hour law those employees who work in establishments doing a retail business of more than \$1 million. In other words, we are talking about 140,000 workers out of 465,000 workers, leaving 320,000 even in the committee bill, in many of the so-called "mama and papa" laundries which are not affected at all by Federal law.

Most of the commercial laundering is done in large cities, in cities where it costs a great deal to live. I would say to the Senate that it costs just as much for a laundry worker to ride a bus to his work as it does for the man who owns the laundry or the man who holds the mortgage on the equipment in the laundry. It costs just as much for the laundry worker to go to the movies or to over to the drugstore to buy drugs, or to see a doctor, or to go downtown to buy some meat or clothing, as it does for someone who is making \$5 an hour.

We are not talking about laundries in a little town like the one in which I am domiciled, Waverly, Minn. In Waverly we have one of those little laundromats, which is operated by putting a quarter in the machine. We are talking about laundries like the laundries in a city of the type where I served as mayor, Minneapolis, Minn. I might say that that is a city with a high cost of living equal to what the cost of living is in the city of Washington.

Let us take a look around the District of Columbia. The other day I received a notice from the drycleaner who takes care of my family's clothing, to the effect that they have been forced to raise the cost of the drycleaning and laundry they do for us. I am sure it is a good company. I still do business with them. It is a good firm, and I am sure that they needed to raise the price or they would not have asked for an increase.

Mr. President, why should a worker be paid a wage which does not permit him even to eke out a decent living. It seems to me if we are going to ask people to wash clothes and to keep them clean, we should at least be willing to give them a good, clean chance to earn a living. I submit that anyone who believes a firm cannot afford to pay a dollar an hour to a laundry worker is really stretching the argument. This is not very good, clean work. We can call them marginal workers if we like. Not very many people want to work in laundries. It is hot, sticky, and frequently stinky. It is often very undesirable work.

We hear talk about a dollar an hour. Mr. President, the people who dig a ditch in front of the laundry are paid more than that. The people who spread gravel on the street in front of the laundry are paid more than that. Yet we would ask people who work inside the laundry—and many of them women, frequently older women—to work for less than a dollar an hour. Many of the workers are older women who are there because there is not enough money at home to support the family. Many of them are older women. Let any Senator go inside the laundry, and go in the backroom, and he will see who is doing the work there. It is done very frequently by older women, by people who cannot get work in an industrial plant, for example, or because perhaps they are too old to get a job on the assembly line, or who cannot work in an establishment out front at the counter.

We are not talking about laundries in a small town in North Dakota or in Minnesota, or in Virginia. We are talking about a laundry in Richmond, Va., or in Minneapolis, Minn. We are talking about a laundry in Jacksonville, Fla., in Detroit, Mich., and possibly even in Providence, R.I., or New Orleans, La.

Mr. PASTORE. Which does a business of over a million dollars a year.

Mr. HUMPHREY. Yes; which does a business of over a million dollars a year.

When a firm does a million dollars' worth of business a year washing someone's shirts or cleaning someone's clothes, I submit that they can pay their employees a dollar an hour, even if it is necessary for them to add a few cents to the cost of laundering and cleaning. It does not make a good argument to say that people who have the undesirable employment opportunity of working in a laundry should be expected to work for less than a dollar an hour, \$1.05 an hour, \$1.15 an hour, and finally \$1.25 an hour.

How these people can live on the wages they are paid, I do not know. I do not

know how anyone can eke out an existence on less than \$1.25 an hour. If we were trying to put out of business a small firm in a small town, there might be some argument made against the provisions in the committee bill. I say to the Senator from Florida publicly what I have told him privately, that the provision in the bill applies to the large establishments doing a million dollars' worth of business a year or more, and to those who are 25 percent commercial.

Mr. SMATHERS. Mr. President, I gather that the burden of the Senator's argument is twofold. First, his position is that the bill applies only to the big laundries which do more than a million dollars' worth of business a year. As I tried to demonstrate earlier, by the very fact that the committee proposal also provides that where more than 25 percent of an establishment's annual dollar volume is received from commercial business, such as the local hamburger stand and the local restaurant or any other commercial business it would be covered regardless of the annual dollar volume of sales. Even though a laundry may not be doing more than \$50,000 totally, if more than 25 percent of the \$50,000 is with the hamburger stand or the grocery store, it is covered. What has been done by the committee bill is to give us two standards. The committee would put in with one hand and take out with the other.

The second argument of the Senator from Minnesota is one that makes me bleed with him. I do not like to see anyone get 95 cents an hour. I do not want to see anyone sweat.

However, I think it is much better to receive 95 cents an hour than to be on relief. I think there is much more dignity in having some kind of job than to have no job at all. The whole problem is that there will be job losses under the pending bill. That will be much more tragic, to my way of thinking, than whether one makes \$1.25 or 95 cents an hour.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield to my colleague.

Mr. HOLLAND. The distinguished Senator from Minnesota presented a graphic picture of the people who work in laundries. I ask my colleague if he believes the people who customarily work in laundries, as was so well described by the Senator from Minnesota, are entitled to more consideration in the bill than the farm people and farmworkers who have been so carefully left out of the bill by its drafters.

Mr. SMATHERS. I thank my able colleague for his comment. The restaurant people and the hotel people and all the rest, in the wisdom of the committee, were left out of the bill. I am delighted that they were. I think that was a wise move. But having left them out, how can we say that we will discriminate against the laundry business? We are requiring the laundry business to meet certain conditions.

Mr. HUMPHREY. To discriminate against the "laundry workers." The

Senator corrected his statement. He said "laundry industry."

Mr. SMATHERS. The laundry industry.

Mr. HUMPHREY. I am not happy about the exclusion of hotel workers from the bill. I am not happy about some of the other exclusions. Some arguments were made on behalf of hotels and other businesses on the basis of seasonal work, and those arguments seemed to make some sense. After all, legislation is done on the basis of compromise. The Senator believes his is a healthful amendment; otherwise he would not have offered it. We have honest differences of opinion.

I can join with the Senator in some concern about businesses that do \$1 million a year and more. But he takes it away with one hand and puts it back with the other, or vice versa. What he says refers to the \$1 million figure, which is a limitation; namely, if a business makes less than \$1 million, it is not under the act; if it does more than \$1 million in sales or service, it is under the act. The Senator says that that, after all, is equal to section 13(a)(3), which relates to the volume of business which must be done in what we call commercial establishments. But there is a difference. It is the difference between a horse and a rabbit. It is not equal.

On the basis of \$1 million a year exemption, if the amendment is adopted it will mean that 134,000 workers who are covered under the bill will lose their coverage. The \$1 million feature provides that 134,000 new workers will be brought under the protection of the minimum wages. Section 13(a)(3) provides coverage for from 6,000 to 7,000 workers.

So the Senator from Florida cannot have us believe that the Senator from Minnesota would, on the one hand, give the worker something, and, on the other hand, take it all away. Not at all. What we do is to provide coverage for 134,000 if a company does \$1 million or more business in laundering and dry-cleaning. We provide for another 6,000 to be covered if 25 percent of the business is with commercial establishments, as the Senator has described.

My point is that everyone ought to be for the \$1 million exemption. If a company does a \$1 million drycleaning or laundry business, it ought to pay a fair wage. The retail establishments are being compelled to do it. I suggest that the 6,000 who are doing business with commercial establishments can afford to pay the bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SMATHERS. Mr. President, will the opposition yield me a little time?

Mr. HUMPHREY. I yield 15 minutes to the Senator from Florida.

Mr. SMATHERS. Mr. President, I yield, first, to the Senator from Colorado.

Mr. ALLOTT. Mr. President, I should like to support the Senator from Florida, because I think there is a great misconception about the proposal. It has been said recently by the Senator from Minnesota that we are not talking about the laundry in Waverly. But we are. We

are talking about the laundries in the little towns of the United States. We are talking about laundries all over the United States. I have in my hand a letter received from an old establishment in Colorado. I do not have the authority to release the name and the confidential figures together, but I can release the figures.

This company is doing an annual business of \$553,911, and is operating on a 0.65 percent profit after gross sales.

Mr. SMATHERS. Less than 1 percent.

Mr. ALLOTT. A little more than one-half of 1 percent. I think one or two statements in the letter ought to be quoted:

Commercial work is about all that is now left and one has to bid so low to obtain a commercial account that the profit is almost nil. We cannot fight the millions of dollars of advertising power of Norge, Maytag, General Electric and Westinghouse to name a few who have taken the family work out of the power laundry.

The writer goes on to say that the smallest part of any laundry business is the family account, because the costs are already so high that the families cannot afford to have their laundry done outside. So any increase in cost will result in the laundry getting no family work at all, because it will take them completely out of the market.

I appreciate the time which the Senator has yielded to me to make this statement.

Mr. SCOTT. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I yield.

Mr. SCOTT. I intrude with reluctance upon these variant points of view on the other side of the aisle concerning the "big washers" and the "little washers." I should like to address an inquiry to the Senator from Florida.

Can the Senator advise me whether or not the President has taken any position in the matter? I am trying, if possible, to support the President, to back him up and help him with the bill. I should like to know whether he has taken a position on it.

Mr. SMATHERS. I do not know whether he has taken a position on it or not. I presume he would be opposed to my amendment. I do not know, but I presume so.

It is always delightful to know when the junior Senator from Pennsylvania is interested in supporting the President of the United States.

Mr. SCOTT. That happens more often than the Senator from Florida may recognize.

Mr. SMATHERS. I congratulate him and wish him well, and say that, like good bourbon, he grows wiser with age.

Mr. SCOTT. I may mellow with age; but at least I am not like the old Florida swamp owl. When he is hunted with a flashlight, the more light you give him, the blinder he gets.

I had hoped we might have an expression from the President, in view of a statement made by him on November 5, 1960, in New York City, in which he said:

In short, I believe in a President who will formulate and fight for his legislative poli-

cies, and not be a casual observer of the legislative progress; a President who will not back down under pressure or let down his spokesmen in the Congress; a President who does not speak from the rear of the battle, but who places himself in the thick of the fight.

I believe that in order to be more readily guided, we ought to have letters from the President or direct statements from him from time to time. I will try to support him whenever I can, as I have said to the Senator from Florida.

Mr. SMATHERS. I am sure that that will not be very often.

Mr. SCOTT. I rather suspect that it will be more often than the Senator from Florida will.

Mr. SMATHERS. Mr. President, I regret that we have gone on to this subject. I am satisfied that the President is, as he has announced publicly, interested in the passage of the bill as it was reported by the committee. However, if the Senator from Pennsylvania wishes to indulge in a little knifecutting, that is his privilege.

Mr. SCOTT. If to quote the President of the United States is to be described as "knifecutting," I regret very much that that description has been applied to it.

Mr. HOLLAND. Mr. President, has the Senator from Pennsylvania finished with his talk?

Mr. SCOTT. I have no objection to whatever the Senator from Florida may say.

Mr. HOLLAND. I thank the distinguished Senator.

I point out that while there has been much talk by the advocates of the bill about extending coverage only to laundries doing \$1 million gross business, I have not heard any advocate of the bill refer to the provision which has caused the laundries in my State more concern than anything else, namely, the provision which appears on page 30, lines 14 to 21, inclusive, which contains an exemption. The language provides:

That this exemption—

The laundry exemption—

shall not apply to any employee of any such establishment which has an annual dollar volume of sales of such services of \$250,000 or more and which is engaged in substantial competition in the same metropolitan area with an establishment less than 50 percentum of whose annual dollar volume of sales of such services is made within the State in which it is located.

My information comes from certain well-established, but not large, laundry businesses in the city of Miami, where my distinguished colleague [Mr. SMATHERS] has his home; the city of Fort Lauderdale; and the city of Jacksonville. It is to the effect that medium-sized laundries in those cities feel that because of the fact that there are some large laundries there which would come within the \$1 million class, but which because of the quality of their business would come under another description, which I have just read, the small laundries, having a business of \$250,000 or a little more, would also come under the provisions of the bill.

So I wish to call the attention of my distinguished colleague to the fact that it is not only laundries which do, annually, \$1 million or more of business which are affected by this measure. We have received several anxious queries from operators of laundries in our State which are in the smaller classification; in other words, they do an annual business of less than \$1 million. They say they are affected by this measure. Yesterday I discussed this question with the distinguished Senator from Michigan [Mr. McNAMARA] and his able legal counsel; and the information which I had from them was to the effect that such laundries are affected by this measure. If I am inaccurate about that, I may be corrected at this time.

So I call attention to the fact that the bill affects other laundries, in addition to those which do a gross annual business of \$1 million or more. The bill also affects smaller laundries which make a profit of \$10,000, \$15,000, or less. In other words, both the large laundries and the middle-size laundries are covered by the bill.

I appreciate the effort the Senator is making, because there is no use in our winking at the fact that the proposed legislation, as drawn, not only affects all such laundries, but actually will drive a great many middle-size laundries entirely out of business.

Mr. HUMPHREY. Mr. President, will the Senator from Florida yield to me?

Mr. SMATHERS. I yield.

Mr. HUMPHREY. First, I wish to thank the Senator from Florida for his generous consideration of his colleagues, in connection with the yielding of time during the debate on this amendment. He has been most helpful.

The senior Senator from Florida [Mr. HOLLAND] has been discussing the coverage of the bill. If it is argued that all laundries, of whatever size, are covered by the bill, then I suppose we should have the bill deal with every retail establishment. The fact is that the \$1 million standard may be too high for enterprises of this type. The amendment may have an impact, as it does, on only a limited number of such enterprises—those with approximately one-fourth of the total number of employees engaged in this business; and the amendment may actually give some advantage to the smaller operators. I think that is a possibility.

But some standard must be provided; and in this case, rather than provide a standard which would cause every retail concern to be covered, the bill provides, in the retail and service section, that those doing an annual business of \$1 million a year or more are covered. If an enterprise is a member of a chain in a particular State and if that enterprise does a business of less than \$250,000, as one of the units of the chain, it is not covered.

The purpose of this provision is to give special consideration to some of the unique problems which have developed in merchandising. We should emphasize that all we are trying to do in this case is provide a little protection for approximately one-third or one-fourth

of the total number of laundry workers, most of whom are to be found in the larger metropolitan areas, where the cost of living is high. I do not say the laundry workers are confined to those areas; but I believe that, in the main, it is as just for laundry workers to be covered by the bill as it is for the employees of a drugstore chain which does an annual business of \$1 million or more a year to be covered, for, as a matter of fact, an employee who works behind the soda fountain in a drugstore may actually wash dishes. So it seems to me that the justice of having this measure cover the laundries is beyond dispute.

Mr. COOPER. Mr. President, will the Senator from Florida yield to me?

Mr. SMATHERS. I yield.

Mr. COOPER. I should like to direct my questions either to the Senator from Florida or to some member of the committee: I am correct, I know, when I state that the employees of a laundry would be covered under the bill when the laundry in which they work does an annual business amounting to \$1 million.

Mr. SMATHERS. Yes.

Mr. COOPER. Yet am I also correct, when I state that the employees of a laundry are now covered even though the laundry does less than annual business of \$1 million, if 25 percent of the establishment's business is done with other businesses which are in commerce, or more than 50 percent of its business is interstate?

Mr. SMATHERS. No—

Mr. COOPER. That is the present law—that 50 percent must have been done in more than one State, and 25 percent with other concerns engaged in mining, manufacturing, transportation, communications—considered as commerce.

Mr. SMATHERS. I believe the Senator from Kentucky is referring to existing law.

Mr. COOPER. Yes. Would these exemptions be wiped out by the bill?

Mr. SMATHERS. They would not be wiped out by my amendment.

Mr. COOPER. But would the committee bill wipe out those exemptions?

Mr. McNAMARA. No, the committee bill would not wipe them out.

Mr. COOPER. But one of the amendments established by the bill is to include "commercial business," with mining, transportation, communications, etc.

Mr. SMATHERS. To the extent of 25 percent.

Mr. COOPER. Yes; if 25 percent of a laundry's business is done with commercial firms, the laundry would be covered by the act whatever its volume of business.

Mr. SMATHERS. That is correct; and it would not make any difference how small the business was. That is the whole point.

Mr. COOPER. Regardless of whether a laundry does an annual business of \$50,000 or \$100,000, if 25 percent of its business is transacted with commercial enterprises, its employees would come under the act. Am I correct?

Mr. SMATHERS. That is my understanding.

Mr. COOPER. This being true, I wish to say that I will vote for the amendment of the Senator from Florida. I support the bill. I voted against the Monroney amendment, and I support covering under the act, the enterprises mentioned in the bill doing an annual business of \$1 million or more. I believe they are engaged in commerce. A \$1 million standard is a reasonable one to use in defining such businesses engaged in commerce, or affecting commerce and the bill provides, with respect to retail and service establishments meeting the \$1 million standard, it must be shown in addition that \$250,000 of their goods received, moved across State lines. No such provision applies to laundries, doing a business of \$1 million annually. As to them, there is no provision that \$250,000 of the business they do, or of the goods on which they work, must cross State lines.

And the bill would change the act with respect to all laundries. The bill provides that if a laundry, whatever its volume, does 25 percent of its business with a commercial enterprise—such as a hotel barber shop, a hamburger stand, as one Senator has stated—it will be covered by the act even though its annual business might be \$25,000 to \$50,000 a year.

I would rather vote to provide better wages for laundry employees than many other groups of employees, because the laundry workers receive low wages. But in the Senate we ought not manufacture such loose criteria of commerce. If there is any business which is almost entirely local in character, it is a laundry business. But, according to my viewpoint, the bill does not lay down consistent standards for all laundry business. By one definition it provides that workers will be covered if the laundry does \$1 million worth of business. But it provides elsewhere that any laundry will be covered if 25 percent of its business is done with commercial firms—local firms—which may not be in interstate commerce—or even exempted by the bill—such as hotels and restaurants.

Mr. McNAMARA. Mr. President, I wish to say—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MANSFIELD. Mr. President, let me ask how much time remains available to this side?

The PRESIDING OFFICER. Fifteen minutes.

Mr. MANSFIELD. I yield 5 minutes to the Senator from Michigan.

Mr. McNAMARA. I thank the Senator from Montana.

In reply to what the Senator from Kentucky has said, I wish to say that this provision is included at the request of the laundry industry. Its representatives said they simply cannot live under wage controls or regulations unless some extension is made in the case of those in the category about which the Senator is concerned.

I think the committee accepted this provision very reluctantly, and so did the administration. But we listened to the requests made by those in this indus-

try. They have a right to be heard; and the laundry industry is insisting on the inclusion of this provision in the law.

I wish to say that there is no section or group of employees or workers in our Nation who need minimum wage laws and minimum hours regulation any more than do the employees in the laundry industry. It is a miserable industry for workers; they sweat and work in terrible conditions. In most laundries there is a great deal of steam, a great deal of heat, and a lack of sufficient ventilation, because, generally speaking, it is practically impossible to air-condition such establishments.

This is a provision which is really needed. These people need the minimum wage protection. I hold in my hand a letter addressed to Mrs. Peterson, Director of the Women's Bureau of the Department of Labor, from a laundry worker. I think this is typical of hundreds of letters that are received. I quote from the letter:

I'm sending this to you because I've seen your name in the paper and see you are for working women.

I'm not much on writing. I don't write often but we heard last night that the wage law don't mean laundry workers—that we are going or may be left out again.

You don't know what this will mean to us. Do the people in Washington not want us to live decently?

I've worked for years in the laundry—hoped to have things change. Laundries don't change. The heat—the steam—the blisters are the same. We always stand. I stand behind a mangle receiving, folding, and hoping some day in some way I'd get more money, for better eating, a better house, and maybe some day be able to go to a bank with money of my own.

There must be someone in Washington who understands that \$24 or \$30 a week is not enough to live on.

Yours,

DOLORES ALLEN.

I point out that, out of the 32,000 laundries in the country, the bill provides coverage for 90 of the large, chain laundries.

The Senate-passed bill had the same provision last year as the bill now before the Senate, as reported from the committee.

In 11 States there are minimum wage laws that impose a \$1-per-hour wage for all workers, including laundry workers. So if laundries in 11 States can pay laundry workers \$1 an hour, as is proposed under the pending legislation, it certainly seems to me the remaining laundries can.

There is no question about the position of the administration. The administration is opposed to the amendment. The administration is for the provisions of the bill as they apply to laundry workers.

Mr. CARROLL. Mr. President, will the Senator from Michigan yield?

Mr. McNAMARA. If I have any time left, I am happy to yield.

Mr. CARROLL. The Senator mentioned 90 chain laundries, and said the Secretary of Labor had exempted certain laundries out of the 32,000.

Mr. McNAMARA. That is correct.

Mr. CARROLL. Were they exempted because they were not in the stream of interstate commerce?

Mr. McNAMARA. If they are not in the stream of interstate commerce, they are obviously exempted.

Mr. CARROLL. The Senator from Kentucky [Mr. COOPER] raised the question as to whether we were creating new standards. It is the position of the junior Senator from Colorado that we have no jurisdiction to regulate commerce unless it is within the stream of interstate commerce. Therefore, that being true, and following the argument which was made as we rejected the amendment of the Senator from Oklahoma [Mr. MONRONEY], our only jurisdiction is over those businesses that come under the commerce clause of the Constitution.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CARROLL. May I have 1 more minute?

Mr. MANSFIELD. I yield 1 minute to the Senator.

Mr. CARROLL. I can conceive of laundries in my own State whose activities would not be in the stream of interstate commerce, and this bill does not affect them. If they come within the interstate commerce clause, then we have jurisdiction.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. CARROLL. If I have time, I am happy to yield, because I referred to the Senator from Kentucky.

Mr. COOPER. I am not inconsistent in what I have said. These are questions of policy, but it is correct that all other enterprises have a provision applying to them that one-quarter, or \$250,000, in goods must go across State lines. Otherwise, the rule of *lex de minimis* would apply. Here there is no \$250,000 limitation, and one of the exemptions that exists is removed.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, how much time have I left on the amendment?

The PRESIDING OFFICER. Nine minutes.

Mr. MANSFIELD. I yield myself 3 minutes.

Mr. President, I listened with a great deal of interest to what the distinguished chairman of the subcommittee of the Committee on Labor and Public Welfare, who is in charge of the bill, had to say. As usual, he was precise and to the point, and wasted no words. I have been in laundries in my own State. I am aware of the difficult conditions under which laundry workers, most of them women, make a living. The working conditions are terrible. Their work is performed under conditions of heat, steam, and what not. Their wages are substandard, and I think they are entitled to what consideration we can grant to them.

At the present time, about 465,000 nonsupervisory workers employed in enterprises engaged in laundering, dry-cleaning, and clothes repairing are excluded from the minimum wage and overtime protection of the Fair Labor Standards Act. The committee bill would extend such protection to 134,000 of these workers who are employed in enterprises having annual sales of \$1

million or more. Another 6,000 would be brought under the act through modification of the section 13(a)(3) exemption. About 57,000 of these employees now are paid less than \$1 an hour.

In many areas the wages paid workers in laundries and cleaning establishments are as low as in any nonagricultural industry. The ability of these industries to meet a moderate minimum wage requirement is demonstrated by the satisfactory adjustment made in 11 States to a minimum wage of \$1 an hour established under State laws, and by the extent of payment of wages of \$1 or more in many areas.

While these industries are composed, for the most part, of local establishments engaged only in furnishing services to personal customers, they also include large chains furnishing services for instrumentalities of and producers for interstate commerce. It is to large enterprises that the act's provisions would be made applicable under the committee bill. This is evidenced by the fact that nearly all of the 134,000 workers it would newly cover are concentrated in only 90 large enterprises which have 1,300 establishments.

So I think what the committee has proposed is fair and equitable. I hope the amendment proposed by the Senator from Florida will be defeated.

I yield 5 minutes to the Senator from Oregon [Mr. MORSE].

Mr. MORSE. Mr. President, I rise to support the chairman of the subcommittee, the Senator from Michigan, and the majority leader. I have been in the laundry field for a good many years. In 1942, I wrote the unanimous opinion of the War Labor Board in the laundry industry. In 1942 the industry was attempting to defend a wage of 25 cents an hour for many thousands of laundry workers. In the report a substantial increase in wages was given to laundry workers.

Last year, in order to dramatize or illustrate my position in this matter, after failing, in committee, to get an amendment I supported in regard to laundry workers, and thousands of laundry workers were getting from 53 to 56 cents an hour, I introduced a bill to reduce the salaries of Members of Congress to 53 cents an hour, to see how they would buy bread and other necessities on a wage of 53 cents an hour. I sought to dramatize the point.

Today thousands of laundry workers are receiving from 53 to 56 cents an hour. A large percentage of them are colored, but it costs them the same amount of money as others to buy bread, milk, and the other necessities for living. Such a low wage cannot be justified as a matter of social justice, we cannot justify our not seeing to it that they are covered within the bill.

What does the bill do? It applies only to laundry workers in interstate commerce. We have no jurisdiction over any other workers. There is no question about that.

The same argument I made earlier today in connection with the Monroney amendment I incorporate by reference now in connection with this amendment.

The question we are considering relates to a laundry which does a million dollars worth of business or which does 25 percent of its business in the commercial laundry field, simply to come under the provision of the bill which is before the Senate.

This is the same as the bill brought to the Senate last year, as was pointed out by the Senator from Michigan [Mr. McNAMARA].

I respectfully say we cannot justify, as a matter of equity and plain social justice, failing to include workers in interstate commerce laundries under the minimum wage bill. We must not forget the stepup which must be followed to receive the full fruition of the effects of the bill.

I make a plea, Mr. President, that we support the administration in respect to the proposal, and that we support Republicans who recognize this as a bipartisan, nonpartisan, social justice issue. We should leave the bill as the Senator from Michigan brought it to the Senate, and vote against the amendment.

Mr. CARROLL. Mr. President, will the Senator yield for a question?

Mr. MORSE. I yield.

Mr. CARROLL. There is great confusion on the question. I know there is, because I have discussed it with Members of this body.

Let us assume there is a laundry in the State of Colorado. I do not care whether the laundry takes the work of commercial establishments or the clothes from homes. If the laundry purchases within the State all of its supplies, which can be manufactured within the State, and if the activity is local, intrastate activity, the bill would not provide any jurisdiction over the laundry. I ask the Senator whether he would agree with this viewpoint?

Mr. MORSE. If it is solely an intrastate laundry and does not purchase across State lines directly or indirectly, which is the rule the court laid down, it would not be covered.

Mr. CARROLL. It is my own personal opinion that if the laundry is local and intrastate, even if its business exceeds \$1-million, the bill would give no jurisdiction.

Mr. MORSE. The Senator is correct.

Mr. CARROLL. Why? Because Congress has no jurisdiction, other than under the interstate commerce clause.

Mr. MORSE. The Senator is correct.

Mr. CARROLL. This is the point I tried to make last year. I make it again.

In my area there are small businessmen. If their activity is intrastate, no jurisdiction over them would be granted under the bill.

Mr. MORSE. The Senator is correct.

Mr. CARROLL. There has been a great deal of misinformation all over the country about the long arm of the Federal Government reaching into activities of small business, when the truth is that under the Constitution Congress has no jurisdiction other than under the interstate commerce clause. I hope we can eliminate such nonsense from consideration of the bill and get to the real issue.

Mr. MORSE. Again, as I argued earlier today, if we agreed to the amendment we would be acting very unfairly in connection with other businesses, covered by the law, which also employ service employees of the same economic status.

Mr. CARROLL. I thank the Senator.

Mr. MANSFIELD. Mr. President, I yield 3 minutes to the Senator from Florida [Mr. SMATHERS].

Mr. SMATHERS. Mr. President, first I wish to state that I completely agree with the conclusions of the able Senator from Kentucky. I regret to find myself in disagreement with the able Senator from Colorado.

The provisions of the bill are that, irrespective of the \$1 million limitation, if any laundry does more than 25 percent of its business with a commercial enterprise, the employees are covered. "Commercial enterprise" is not defined.

To make the case graphic, let us say the commercial enterprise is a hamburger stand near the laundry. The cattle can be raised in Colorado and the feed can be obtained in Colorado, but the bill provides that if more than 25 percent of the laundry business is with a commercial establishment—namely, the hamburger stand—the employees would come under the Federal law.

I say that, logically and legally this should not be. Therefore, I make the argument for the amendment. I believe the Senator is completely incorrect in his position. However, we understand how we can disagree on these questions.

Secondly, from time to time, we have all talked about the importance of small business and how it needs to be defended. There is no greater small business concentration than in the case of laundries. If we mean what we say when we talk about how interested we are in small business, we have an opportunity to demonstrate it. Most laundries are small businesses.

Mr. President, the last thing I wish to say is that this is not a question of who feels more sorry for the people who are working in "sweatshops," whether they are getting 85 cents or 95 cents or a dollar an hour. Of course those people have to buy bread. Of course they have to obtain medicine. The question is, Will they get what they need for food and medicine by working, or be on relief?

My argument is that it is much more dignified, much more in keeping with human dignity and human hope, to permit a person to have a job by establishing this kind of limitation, rather than to eliminate the jobs and put the people all on relief. The million dollar rule and the inclusion of the word "commercial" is unfair and discriminatory to the service industry. It is an industry that is being treated different from the retail industry or any other service industry. I urge the adoption of the amendment.

Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, has all time been used?

The PRESIDING OFFICER. All time has expired.

Mr. MANSFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment offered by the Senator from Florida [Mr. SMATHERS]. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Idaho [Mr. CHURCH] is absent on official business.

I also announce that the Senator from Virginia [Mr. ROBERTSON] is absent because of illness.

I further announce that, if present and voting, the Senator from Virginia [Mr. ROBERTSON] would vote "yea."

Mr. KUCHEL. I announce that the Senator from Wisconsin [Mr. WILEY] is absent because of death of his brother.

The result was announced—yeas 45, nays 52, as follows:

[No. 34]

YEAS—45

Allott	Eastland	Miller
Beall	Ellender	Monroney
Bennett	Ervin	Morton
Blakley	Fulbright	Mundt
Bridges	Goldwater	Russell
Bush	Gore	Saltonstall
Butler	Hickenlooper	Schoeppel
Byrd, Va.	Hill	Smathers
Capehart	Holland	Smith, Maine
Carlson	Hruska	Sparkman
Cooper	Jordan	Stennis
Cotton	Kefauver	Talmadge
Curtis	Kerr	Thurmond
Dirksen	Long, La.	Williams, Del.
Dworshak	McClellan	Young, N. Dak.

NAYS—52

Alken	Hart	Metcalf
Anderson	Hartke	Morse
Bartlett	Hayden	Moss
Bible	Hickey	Muskie
Boggs	Humphrey	Neuberger
Burdick	Jackson	Pastore
Byrd, W. Va.	Javits	Pell
Cannon	Johnston	Prouty
Carroll	Keating	Proxmire
Case, N.J.	Kuchel	Randolph
Case, S. Dak.	Lausche	Scott
Chavez	Long, Mo.	Smith, Mass.
Clark	Long, Hawaii	Symington
Dodd	Magnuson	Williams, N.J.
Douglas	Mansfield	Yarborough
Engle	McCarthy	Young, Ohio
Fong	McGee	
Gruening	McNamara	

NOT VOTING—3

Church	Robertson	Wiley
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So Mr. SMATHERS' amendment was rejected.

Mr. HUMPHREY. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. DOUGLAS. I move to lay that motion on the table.

The motion to table was agreed to.

Mr. PROUTY. Mr. President, I have an amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 13, line 15, strike out the word "local". On page 13, line 22, strike out the word "local".

Mr. PROUTY. Mr. President, there is a proviso qualifying the definition of the word "enterprise" the purpose of which is to insure that small independently owned retail and service establishments will not be brought under the Fair Labor Standards Act simply because they have dealings with a giant business enterprise.

For example, the local gasoline station man will not be covered simply because he has an exclusive sales contract with one of the large oil companies or is subject to some elements of control.

I am afraid, however, that the presence of one word in the proviso qualifying the definition of the word "enterprise" may create some problems. I refer to the word "local."

Suppose that a man lives in one town in Vermont, owns a gasoline station in another town in Vermont and his gasoline station has an exclusive sales contract with a big oil company. The Congress would not want to bring the employees of this man under the act simply because of the sales contract. But the presence of the word "local" makes this possible. I say this because the gentleman in the case I gave lives in one town and owns a small station in another town within the same State. There is absentee ownership present here and the establishment could be considered one which is not local.

I understand that the amendment will be accepted by the committee.

Mr. McNAMARA. The Senator from Vermont is quite correct in offering the amendment. The word is unnecessary.

The intent is to deal with retail or service establishments which are independently owned and independently operated, and to treat them as separate enterprises, even if they have the arrangements mentioned later in section 3(r).

I am glad to accept the Senator's amendment.

Mr. PROUTY. I thank the Senator. He is very gracious.

The PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

Mr. PROUTY. I yield back the remainder of my time.

Mr. McNAMARA. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Vermont.

The amendment was agreed to.

Mr. MORSE. Mr. President, I have an amendment at the desk. I have distributed a modified amendment to all Senators. I would like to call it up in that form as a perfected amendment.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 33, line 17, strike out the period and insert a colon and the following in lieu thereof:

Provided, That this clause (15) shall not apply to any such employee if the land on which such employee is engaged in such lumbering or forestry operations is owned or controlled, directly or indirectly, by an enterprise engaged in the production of pulp, paper, or other wood products or is owned

by the United States, any State, or any county or other local government.

Mr. MORSE. Mr. President, may I have the attention of the majority leader for a moment? I called up the amendment thinking that the Senator from Mississippi [Mr. STENNIS] was on the floor. I gave him my word that I would not call it up until he was on the floor. I would like to be relieved of calling it up at this time until the Senator from Mississippi arrives. Perhaps we may take up another amendment in the meantime. I understand the Senator from Minnesota has an amendment to offer. I therefore withdraw my amendment for the time being.

Mr. McCARTHY. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 35, line 4, before the semicolon insert a comma and the following: "or if such city is a part of such an area but has a population of not more than 25,000 and such station's major studio is at least 40 airline miles from the principal city in such area."

Mr. McCARTHY. I have discussed the amendment with members of the committee. It is in conformity with the intent of the committee to exempt from overtime coverage the announcers, news editors, and chief engineers of small radio and TV stations located in cities and towns below 50,000 population, except for cities in a standard metropolitan area which have a population of more than 50,000. This appears to be a reasonable line of division, but there are a few cases where the language would result in uneven application to stations in small cities. My amendment is designed to take care of these cases.

The standard metropolitan area includes the entire county in which the principal city is located. In certain sparsely populated areas we have some very large counties; and in a few cases small cities of 5,000 to 25,000 may be included in a standard metropolitan area even though they are far removed from the principal city and have no direct economic and social ties with it.

Radio stations in these small cities are often of only 1 kilowatt and they serve an area of 15 to 20 miles around the city. Such stations do not compete with stations in the principal city.

In Minnesota, for example, Duluth is located in St. Louis County. The boundaries of St. Louis County run all the way to the Canadian border and the county contains 6,281 square miles. Except for the cities on the Iron Range, the region is sparsely settled. The road distance from Ely, population 5,438, to Duluth is 115 miles; from Hibbing, population 17,731, to Duluth is 75 miles; from Virginia, population 14,034, 66 miles; and Eveleth, population 5,721, about the same distance.

My amendment would put stations in these and similar small cities of 25,000 or less in the exempted category, even though situated in a standard metropolitan area, when there is clear indication that they are included only by

reason of location in an extraordinarily large county. The test would be that such cities be located 40 airline miles or more from the principal city of the standard metropolitan area.

Mr. HUMPHREY. I wish to associate myself with the proposal of my colleague. I ask Senators to believe what the two Senators from Minnesota say as to what is a metropolitan area. If the upper part of Minnesota, in what we call the Iron Range area, in the northeastern part of Minnesota, is a metropolitan area, then the vast expanses of deserts are not only thickly inhabited but also cluttered with skyscrapers and teaming cities. This is an area in which there are a number of small towns. There is only one large city, Duluth. I hope the chairman of the subcommittee, who is proving himself such a prudent, sagacious, wise, and good man will immediately accept the amendment, because it is in the public cause and for the common good. I appeal to his superior wisdom and good sense.

Mr. McNAMARA. Mr. President, with such an appeal from such a source, I can do nothing but accept the amendment on behalf of the committee.

The PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

Mr. HUMPHREY. I yield back the remainder of our time.

Mr. McNAMARA. I yield back the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HILL. Mr. President, since there is so much good sense in the Senate at this time, I wish to offer a very sensible amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 33, line 17, it is proposed to strike out the period, insert a semicolon and the following new language: "or (16) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (1) is primarily employed during his workweek in agriculture by such farmer, and (2) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1)."

Mr. McNAMARA. Mr. President—

Mr. HILL. Mr. President, I yield to the Senator from Michigan.

Mr. McNAMARA. Mr. President, the amendment has been examined very carefully. We find that practically all the persons involved in the amendment are paid more than the minimum wage. I know of the concern of the distinguished chairman of the Committee on Labor and Public Welfare about the remainder of the persons involved; therefore, I am happy, on behalf of the committee, to accept the amendment.

Mr. LAUSCHE. Mr. President, may we have an explanation of the amendment?

Mr. HILL. A person who works on a farm enjoys the exemption which is given to farmers. Most of his time is spent on the farm. But perhaps he brings his cattle to the stockyard and works 1 day in the stockyard. He continues to enjoy his farm exemption while he is on the farm, but when he is working in the stockyard he will come under the act and get the benefits of the Fair Labor Standards Act.

Mr. MANSFIELD. Mr. President, I yield back the remainder of the time under my control.

Mr. HILL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment offered by the Senator from Alabama [Mr. HILL].

The amendment was agreed to.

Mr. MORSE. Mr. President, now that the distinguished Senator from Mississippi is in the Chamber, I ask that my perfected amendment designated "4-18-61—D" be read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 33, line 17, it is proposed to strike out the period and insert a colon and the following in lieu thereof:

Provided, That this clause (15) shall not apply to any such employee if the land on which such employee is engaged in such lumbering or forestry operations is owned or controlled, directly or indirectly, by an enterprise engaged in the production of pulp, paper, or other wood products or is owned by the United States, any State, or any county or other local government.

Mr. MORSE. Mr. President, I hope the Senator from Michigan will be as gracious in agreeing to take my amendment to conference as he just was in agreeing to take the amendment of my very dear and great friend, the distinguished Senator from Alabama [Mr. HILL], to conference, because I am satisfied that on its merits my amendment is at least—and I stress the word "least"—equally meritorious.

I always endeavor to lay before the Senate all the facts of any proposal I make to the Senate. I have battled for this amendment for several years. I was beaten again in committee this year on the amendment, but that does not mean it is not a good amendment; it means only that I did not have the votes. I have learned from many years of experience in the Senate that it sometimes takes time to convert a minority into a majority. I hope this will be my lucky day, and that either I will have my amendment taken to conference through the graciousness of the Senator from Michigan or that I will win on the vote.

My problem is that I am in conflict with my very good friends from the South, who represent a constituency which is also engaged in the lumber industry. The cold, hard fact is that the lumber industry in the Pacific Northwest pays high wages, and various segments of the lumber industry in the

South pay very low wages. What is the result? My constituents are placed at an economic disadvantage compared with the South. This is true wherever low wages are paid in the South, in any phase of the lumber industry. So it will be seen that my amendment would cover any phase of the lumber industry, but it is particularly true of the paper pulp industry.

What happens in the South in contrast with what happens in the Pacific Northwest? The big lumber operators enter into contracts with so-called independent contractors. We call them so-called gyppo operators. That is not a derogatory term at all; it is simply a descriptive term by which such operators are known in the industry. They are known as gyppo operators. They have a little gyppo lumber mill or lumber operation.

In the case of the paper pulp industry, a man may own two or three power saws and a couple of trucks. He contracts with the big lumber companies to cut their pulpwood. He takes the pulpwood into the big lumber mill, where it is cut up into pulp, which finally flows out in various forms of paper products.

Because there is in the law an exemption for an employer who employs 12 employees or fewer, the Wage and Hour Act does not apply to his lumber operation. The position of my constituents—and I think their position is unanswerable on this point—is that we cannot escape the fact that the lumber operators who enter into subcontracts know that they will get pulp into their mills. They really control the operation. They are, in fact, the economic force which competes for the purchase of the pulp. In many instances, they own the very timber which is being cut by the gyppo operators.

Lumbering is one of the most hazardous occupations in the country. I do not think anyone questions that one who works in the lumber industry ought to get at least the minimum wage and should not be put in a position where he will work for less than the minimum wage in any phase of the lumber industry, whether in the paper pulp industry or any other.

As a representative of the people of the sovereign State of Oregon, I say to my good friends from the South that I am only presenting the case on the basis of what I believe is justice to the people of my State, justice to the lumber industry and the employers in my State, justice to the thousands of workers in the woods in my State. I do not think the unfair advantage which the South now enjoys, because there are many operators in the South who pay substandard wages, ought to continue.

My amendment provides:

Provided, That this clause (15) shall not apply to any such employee if the land on which such employee is engaged in such lumbering or forestry operations is owned or controlled, directly or indirectly, by an enterprise engaged in the production of pulp, paper, or other wood products or is owned by the United States, any State, or any county or other local government.

The amendment does not apply to the woodlot farmer. The argument with which I am hit every year in the committee is, "Oh, what this proposal would do to this little woodlot farmer in the Southern States." The amendment does not apply to him. In fact, he owns the land. It does not apply to him at all. We are really after the big lumber operators—the mill owners, in effect—who can control the timber and by the subcontracting arrangement, compete at an unfair advantage, to the disadvantage of the lumber operators of my State.

I think this is a fair and equitable proposal. I cannot say more. That is my case. I hope the chairman of the subcommittee will at least agree to take my amendment to conference.

Mr. JORDAN. Mr. President, will the Senator from Oregon yield?

Mr. MORSE. I yield.

Mr. JORDAN. I think I know something about the operation of pulpwood cutters. Most of that wood is cut by the cord. The cutters work for themselves. They receive so much a cord stacked up. They actually work for themselves, whether they cut the wood on their own land or on the land of someone else. Those woodcutters do not belong in this bill at all.

Mr. MORSE. I am aware of that "gimmick," too. They can come under the Wage and Hour Act by using the measuring rod of cutting by the cord. The Department of Labor can translate that into hours of work.

I merely ask, whether the pulpwood cutter works by the hour or by the cord, is he, in fact, working for less than the minimum wage? The facts are not disputed in our committee by the very able spokesmen from the South who want the exemption to continue. They make the argument that this amendment would put their woodcutters out of business. They say that the little gyppo operator would not be able to remain in business. I have heard that bewhiskered argument for years. It does not follow that that is a fair argument.

I raise again the question of public policy: Is it fair, just, and equitable that the people who work in the lumber industry, when we know that the result of their toil will flow into the mills, should receive the minimum wage?

My answer is yes, and I do not think they should have an out on the basis of statements that in the "gyppo" operations the payments are made on the basis of the cords of wood cut, not on the basis of the number of hours worked.

Mr. JORDAN. Mr. President, will the Senator from Oregon yield further?

Mr. MORSE. I yield.

Mr. JORDAN. The amount the worker earns an hour depends upon the amount of wood he cuts and stacks each day.

Mr. MORSE. But if he is hired, the employer should be expected to pay him a decent minimum wage; and the lumber operator should not expect the employees to subsidize him. But that is what this situation amounts to.

Mr. JORDAN. In most cases, these workers are not hired at all by the

lumber operators. They pay the workers for the number of cords of wood they cut and stack; and the price paid amounts to more than the minimum wage now proposed.

Mr. MORSE. If the workers receive more than the minimum wage, that is fine. But I am not interested in continuing the various devices the large operators in the South use in order to get around paying the minimum wage. I wish to make perfectly clear that if paper is to be manufactured, the regulations should begin to be applied where the trees grow.

Mr. JORDAN. But in the South such employers cannot afford to hire bookkeepers or timekeepers to go into the woods and keep track of the exact number of hours worked by two or three men.

Mr. MORSE. Of course I know it is argued that this provision will result in a very complex accounting system. But that is not true. In Oregon the woodbook is used, and by that means the foreman keeps track of the amount of time actually worked.

So Senators cannot talk me out of my position merely by arguing that there will be an increase in the administrative expenditures. It is all very simple: the foreman simply keeps a woodbook in his pocket, and every night he jots down whether Jim Smith worked 5 hours or whether Joe Brown worked 6 hours.

Mr. JORDAN. But who is the foreman?

Mr. MORSE. Why should the paper-pulp industry be exempt? It is argued that it should continue to be exempt because it has become accustomed to being exempt and because it employs cheap labor in the South. But for the good of the country and also for the good of the South this exemption should be ended. Therefore, my amendment will end it.

Mr. METCALF. Mr. President, will the Senator from Oregon yield to me?

Mr. MORSE. I yield.

Mr. METCALF. I support the amendment of the Senator from Oregon. In our State, the minimum wage in this industry is \$2.12 an hour; that is the minimum wage in this industry in the forests in the Northwest. So it seems to me that it is justifiable and fair to require that at least half of that amount be paid by the lumber industry in other States.

Mr. JORDAN. Mr. President, will the Senator from Oregon yield to me?

Mr. MORSE. I yield.

Mr. JORDAN. In that connection, I want the Congress to pass a law which will require that the wages paid in Japan be equal to those paid in the United States, because I think our workers now suffer from unfair competition from Japan.

Mr. MORSE. If we had jurisdiction over Japan, I would vote for such a law, too.

Mr. BIBLE. Mr. President, I yield 5 minutes to the Senator from Alabama [Mr. HILL.]

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. HILL. Mr. President, as the Senator from Oregon has said, the com-

mittee voted down, last session, an amendment more extensive than the amendment of the Senator from Oregon. The committee has voted it down on several occasions. In fact, the committee voted down a similar provision proposed by the administration.

Mr. MORSE. Mr. President, will the Senator from Alabama yield?

Mr. HILL. I yield.

Mr. MORSE. I love the administration, but it is not the personification of perfection; and this situation is one of its mistakes.

Mr. HILL. Mr. President, I am sure the Senator from Oregon would not feel that way about his amendment, because undoubtedly it is his position, that a Morse amendment is bound to be perfect.

But the administration does not think this amendment is perfect, and neither do I. The Senator from Oregon himself has said that the committee has considered this matter and has weighed this matter and has voted down such a provision, not only once, but several times. That was done because this bill deals primarily with larger businesses and larger enterprises, whereas in this case we are discussing keeping in the law an exemption which has been in the Fair Labor Standards Act ever since 1949—namely, the exemption for small logging businesses which involve 12 men or less. If more than 12 men are involved, the business moves out of the little business category, and the exemption no longer applies.

But neither the administration nor the committee thinks this exemption—which has been in the law all these years, and is there today—should now be removed, as provided by the amendment submitted by my friend, the Senator from Oregon.

This business is indeed small business. It differs from the lumber business in the West, in that in the West there are vast tracts of forest land—beautiful tracts. I have been there, and have seen some of them. In the great State of Oregon there are marvelous stands of heavy timber. One who views them has almost a feeling of reverence for those wonderful, beautiful, majestic trees. But in the South, as my good friend has indicated, the situation is different. The trees there are found in little spotty areas.

Mr. JORDAN. We call them saplings.

Mr. HILL. Yes. One small area may be found in one place, and another small area may be found some miles away. The Senator from North Carolina has referred to the saplings, for in the South there no longer is any virgin timber. In many instances, the work is done on the sixth cutting. So the situation in the South is different from that in Oregon or in other Western States. In the South, these businesses are small, and the sawmills have to be small and portable, so they can be moved from one small timber area to another one, often a number of miles away.

Furthermore, these businesses have to make a terrific struggle even to remain in business. Between 1941 and 1957, 51 percent of those engaged in this business in the South went out of business. The economic situation there was such that they could no longer survive.

Because of the scattered areas involved in the South, and because of the small amount of timber available in the areas in the South in which these operations are conducted, and because of the price level, and also the availability of labor, these operations in the South are entirely different from those in the Western States. As I have said, in the South many of the sawmills are small portable ones, which must be moved many miles, between the scattered areas. That situation is very different from the situation in the Western States.

In the South, a considerable part of this land is owned by small farmers who need this income. As we know, in recent years they have been having a very difficult time; a revolution has been occurring in agriculture.

Mr. HOLLAND. Mr. President, will the Senator from Alabama yield?

Mr. HILL. I yield.

Mr. HOLLAND. Is it not true that in many parts of the South the labor which does this so-called logging—generally the handling of pulpwood trees—is the same labor that is used periodically, at various seasons, on the farms; and is it not also true that those engaged in this business have to compete, in obtaining labor, on the basis of the wages which prevail generally in the agricultural industry?

Mr. HILL. That is entirely correct.

Mr. HOLLAND. Is it not also true that a few years ago the Congress—in recognition of that fact—placed forestry and forest-products industries under the jurisdiction of the Committees on Agriculture, so that all those groups would be handled by the same committees; and is it not also true that, under this bill, agricultural enterprises generally are completely exempt?

Mr. HILL. Yes. The committee is the Committee on Agriculture and Forestry. Forestry is under Agriculture. As the Senator from Florida has said, the people who do the logging are those who do what they can to eke out a living on the farm, and do what they can to supplement their income from logging.

Mr. HOLLAND. Is it not true that many of these people call themselves tree farmers and procure and carry on their little forestry plantings until the trees are big enough for pulpwood, after which time the better ones are grown for lumber or timber? Is it not true that they call themselves tree farmers, and they are called tree farmers in our area, and they are in fact tree farmers?

Mr. HILL. They are tree farmers, who are using this means to supplement the meager incomes which they get from other crops they produce.

Mr. GORE. Mr. President, will the Senator yield?

Mr. HILL. I yield to the Senator from Tennessee.

Mr. GORE. I wonder if the distinguished Senator from Alabama would not think that one with the compassionate, magnanimous, and noble spirit of the senior Senator from Oregon, would, upon careful consideration, really want to place into competition with the huge, efficient mills in the virgin forests in the Northwestern parts of the United States the little sawmill operators, and

those who work from one stand to another, moving about in odd seasons of the year?

Mr. HILL. I may say that the sawmills themselves now come under the Fair Labor Standards Act.

This proposal is to cover those who go into the woods and cut the timber. So far as the sawmills are concerned, they come, as we know, under the Fair Labor Standards Act.

Mr. GORE. This means is used as a supplement to the meager living they otherwise would earn. Is that correct?

Mr. HILL. That is correct; and I hope the eloquent words of the Senator from Tennessee have moved the compassion of the Senator from Oregon.

Mr. MORSE. Mr. President, will the Senator yield, on my own time?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MORSE. My time?

The PRESIDING OFFICER. No; the time of the Senator from Alabama.

Mr. HILL. I will let the Senator take his own time.

Mr. MORSE. I wish to say to the Senators from Alabama and Tennessee that they have moved me very deeply. They have made me more convinced than ever of the soundness of my position. I want them to come out to my State and witness how the paper pulp industry operates, and how wrong they are in comparing the way our paper pulp industry operates with the way it does in the South. We use the same sized pulp trees. We harvest them when they are ready to be harvested, just as is done in the South. We are not talking about some little lumber mill; we are talking about the gyppo cutter.

I am talking about the big lumber mills that control the pulp industry. They are the ones who are in competition with the paper, cardboard boxes, and various types of hardwood industry in the South as well as in my State. There is no difference as far as the final place of manufacture is concerned. We are talking about how they get the paper pulp. The Senator puts the cutters in my State at a great disadvantage. We pay high wages.

It is also true that one of the ways to improve the industry in every State is to pay the lumber mill workers and the cutters a decent wage. If we have ever demonstrated anything, it is that a decent wage results in a decent purchasing power and results in expansion of the economy of the area affected. So I am really making a plea to help my friends of the South. I do so not only gratuitously, but because it will result in an economic benefit, not only to the South, but also the Northwest.

Mr. BIBLE. Mr. President, I yield 5 minutes to the Senator from Mississippi [Mr. STENNIS].

Mr. STENNIS. Mr. President, I think this subject has been well covered already, but I think I should say that the exemption has long been recognized in the law. The exemption exists in the law, and has been in it since its inception, that 12-man wood crews do not

come under the provision of the act for many reasons.

This question has been considered by the committees and by Congress. The decision was reached to reaffirm the provision of the present law to continue the 12-man wood crew exemption.

The Senator from Oregon offers an amendment which would preserve the 12-man crew exemption except on certain large tracts of land in the hands of large enterprises, or in national forests or States or political subdivisions thereof.

He speaks of the cheap labor of the South. I want to give him some direct evidence that when he refers to those who cut the pulpwood and logs, during the winter season especially, he refers to small landowners, white and colored, who are without employment during the winter months and who seek employment near their homes. They spend their nights at home, and make up many of the wood crews. If such work is not available to them, they have virtually no work.

I know, of my own personal knowledge, that last fall the National Forest Service advertised pulpwood in South Mississippi for sale, twice, and had no bidders. That meant there would be, for the time, no jobs for anybody in that category. It meant there was an oversupply, that the market was sluggish; there were no bidders at any price. I think the situation has improved. I hope it has. But, in an economic way, that fact confirms the soundness of the exemption as it has been written in the law for more than 12 years. It confirms the necessity of continuing the exemption, and the practical consideration that a large part of the work is seasonal work, as the Senator from Florida has suggested.

There is another reason for continuing the exemption. Often when those persons are working, they work overtime, because many times on account of wet weather, for days and weeks they cannot work at all.

I am not talking of theories or statistics, because I have been out in the woods, and I personally know many people who do this work. I have seen them employed. I know their ups and downs in this particular work. It does not affect companies nearly so much as it affects these people. We are dealing with human beings who are trying to make a living; this kind of work frequently is an important part of their living. If we attempt to apply a strait-jacket, which might be appropriately applicable to some large industries, we disrupt and totally destroy an arrangement which works so well for small operations.

What we need is more of these larger tracts of land, as well as smaller tracts of land, and I hope that never again will there be the condition that, when pulpwood is advertised, there are no bidders.

Mr. President, I hope we will preserve the exemption intact. It has proved to be sound and wise. We have rejected proposals to change it before.

I wish to thank the Senator from Oregon for waiting to present this amendment. He has visited our State, and I hope he will come back again.

Mr. MORSE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. MORSE. I shall go back to the Senator's very wonderful State.

I make three points in closing my argument this afternoon.

It is true that many of the people to whom reference is made work in the winter, but they are employed. They need the jobs. A loaf of bread and a quart of milk cost as much in the winter as they do in the spring or the summer.

This is a question of whether a decent wage should be paid to get the paper pulp cut. Furthermore, what these people do is cut pulpwood which eventually goes to the big manufacturers of paper products. I think those big manufacturers ought to see to it that enough is paid to provide a living wage.

Last, in answer to my good friend the Senator from Florida [Mr. HOLLAND] about this supposedly being an agricultural matter, the Internal Revenue Service does not so consider it. The whole matter of paper pulp and the forestry industry cannot be considered on the Internal Revenue tax reports as a phase of agriculture. It is considered to be industry, Mr. President, and not agriculture.

As I close I simply say I think the time has come when we ought to see to it there is at least a minimum wage requirement throughout the lumber industry, so that we shall not continue to have the exceedingly cheap labor, whether in winter or any other time of the year, working for a wage below a wage of health and decency, to the inevitable big profit of the great lumber operators of the South.

Mr. DIRKSEN. Mr. President, I yield myself three minutes from the time on the bill.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIRKSEN. Mr. President, I am glad the distinguished Senator from Oregon offered the amendment. If this is not a classic example of the difficulties we will encounter under a bill of this kind, then I have never seen one.

Suppose I go to Mississippi. While driving along the road I may see a fellow, whom I may ask, "Who owns this stand of timber?" He may say, "John Stennis." I might ask, "How many acres are there in the tract?" He might say, "About 4,000 or 5,000." I might ask, "What are the crews doing?" And he might reply, "They are cutting a crop."

Then I might ask another question, "Who owns the stand of timber over there?" The reply might be, "The Mississippi Pulp & Paper Company owns that." I might ask, "What are they doing?" The reply might be, "They are getting out timber to send to the pulp mill at Meridian," or wherever it might be.

That is an enterprise which is owned directly or indirectly by one in the busi-

ness of producing pulp and paper products, and yet the other is an individual stand. The boys on one side would come under the Morse amendment, and the boys on the other side would not come under the Morse amendment. If that is not discriminatory, if that is not a rank and classical kind of arbitrary action and treatment, then I have never seen any.

We rejected the amendment in the committee, as the distinguished Senator from Alabama said. I think we ought to reject the amendment now. I say to my distinguished friend, I am amazed, in a way, that he ever offered the amendment. He is what I call "going for the whole hog" in his approach. I think once he said, "There should not be any exemptions of any kind."

Mr. MORSE. Mr. President, will the Senator yield?

Mr. DIRKSEN. Now he would like to pile an exemption on an exemption, and that, to me, is astounding indeed.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield, with a great deal of pleasure.

Mr. MORSE. I eat one pork chop at a time.

Mr. DIRKSEN. That could very well be, but I think my friend will agree that this is something in which his constituents have an abiding interest, but—I do not know why—he suddenly forsakes all the great and classical foundations of logic for which he is so well noted all over the country.

The amendment ought to be rejected.

Mr. BIBLE. Mr. President, I yield back the remainder of my time if the Senator from Oregon will do likewise.

Mr. MORSE. Mr. President, I yield my remaining time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment offered by the Senator from Oregon [Mr. MORSE].

The amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CURTIS. Mr. President, I offer an amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 16, between lines 2 and 3, it is proposed to insert the following new subsection:

Paragraph (d) of section 3 of the Fair Labor Standards Act of 1938, as amended, defining the term "employer," is amended by inserting before the period at the end thereof a comma and the following: "or any organization which is exempted from taxation by the provisions of section 501(c)(3) of the Internal Revenue Code of 1954, as amended".

Mr. CURTIS. Mr. President, I shall be very brief.

The purpose of the amendment is to exempt from the provisions of the wage and hour law the religious and charitable institutions which are exempt from taxation. The section in the Internal Revenue Code relates to corporations or any community chest, fund, or founda-

tion organized exclusively for religious, charitable, scientific, and so on—and then it provides that no part of the funds shall go to any person for profit.

The amendment is quite necessary. There are many splendid organizations which provide some employment and some income for people who otherwise would not have any. I think immediately of the Good Will Industries. I think of those charitable enterprises which seek to hold down their labor costs in order that their funds may reach more needy people. Many employees serve as a labor of love, as a matter of dedication, yet they must receive and they do receive some wages.

Why should the Government of the United States attempt to control the wages of charitable organizations which are not operated for profit? There is no opportunity for someone to beat down wages in order to increase profits. The lust for profits is not present. These organizations are operated so that there will be more money available to buy food, clothing, and other benefits for needy people.

We have the organizations such as the Good Will Industries, the Light House for the Blind, the Salvation Army, and others. I received a letter from an organization in my State. I am sure many Senators have heard their broadcasts. This group is called "Back to the Bible Broadcast."

The letter says:

MY DEAR SENATOR: The Good News Broadcasting Association is a nonprofit religious organization serving many millions of people throughout the world by radio and literature, with headquarters in Lincoln, Nebr.

Sometime ago we mentioned to you that the minimum wage law has caused considerable hardship on organizations like ours which depend upon the free-will offerings of God's people. Now that this bill is up again, I wish to again bring this to your attention.

Could not an amendment be included which would exclude such religious nonprofit organizations from coming under this particular labor law? We will appreciate your further consideration.

The same organization, in a letter to the chairman of the committee, said:

Ours is a religious, nonprofit organization working interstate. We are dependent on the goodwill of Christian people in the United States for the support of our ministry. A law such as is being proposed will work a great hardship on us financially. We meet the present wage scale required by the present law, but a further increase, such as the one proposed, will be exceedingly hard for us to meet.

Mr. President, this is important, because it is contended by some on the committee that the amendment is not necessary.

The people of the United States should not be required to carry a copy of the committee report with them in order to determine what is the law. The law should be clear, and if it is not the intention of the committee to cover such groups as those which I described, I hope the committee will accept the amendment. Here is what the people to whom I have referred write:

No one we have contacted, including our attorneys, is able to say positively that or-

ganizations such as ours are automatically exempt from the minimum wage law. Can you clarify this? Just how would an organization like ours be affected by the legislation now under consideration?

My understanding is that it is the intention of the drafters of the bill to exclude from coverage institutions of the kind I have described. I believe it is. But I believe such exemption should be accomplished by a specific exclusion or exemption, and that neither the Congress nor the public should be forced to rely upon a statement contained in a committee report in order to construe vague and ambiguous language in the bill.

To accomplish what the majority report states is intended, the precise language would be readily available as it is embodied in my amendment. These are nonprofit charitable institutions that are specifically exempt under our Internal Revenue Code.

When we consider the fine organizations which collect money, we know that the leaders of those organizations wish to use the available money to go as far as they can in carrying on their religious work. Perhaps such organizations wish to buy as many baskets of food as possible in order to distribute them to the needy.

Such organizations use a class of help that is a labor of love. Their employees work with a sense of dedication. Yet many of them should be and must be paid something. The profit motive is not involved. Why should the Government of the United States control the wage policy of such organizations?

I sincerely hope that the committee will accept the amendment in order to clarify a point that the committee contends is their intention. The people engaged in such an activity would like to have such a provision in the bill.

I reserve the remainder of my time.

Mr. McNAMARA. Mr. President, will the majority yield some time to me?

Mr. MANSFIELD. I yield.

Mr. McNAMARA. It should be made clear in this connection that the new coverage under the committee bill would not extend to charitable, eleemosynary, or other nonprofit organizations. However, this is no reason for taking away the benefits of the act for some 38,000 employees who are currently afforded its protection.

This amendment is retrogressive in nature and would remove from the present protection of the act all employees of nonprofit organizations which are organized and operated exclusively for religious, charitable, scientific testing for public safety, or educational purposes. Such employees are now protected by the act if they are engaged in commerce or the production of goods for commerce and if the organizations by which they are employed do not qualify for exemption as retail and service establishments.

There are approximately 38,000 people involved in the production of goods by nonprofit organizations who are directly, under any interpretation of the commerce clause, involved in interstate commerce.

Mr. CURTIS. Mr. President, will the Senator yield at that point?

Mr. McNAMARA. I shall be glad to yield, but permit me to yield first to the Senator from Illinois for further clarification.

Mr. DOUGLAS. Do I correctly understand that what the Senator from Michigan is saying is that charity begins at home?

Mr. McNAMARA. I believe it would be an act of charity to pay people working in the fields specified a living wage when such industries are engaged in interstate commerce.

I am glad to yield to the Senator from Nebraska.

Mr. CURTIS. What does the committee bill provide concerning hotels?

Mr. McNAMARA. Hotels are exempt.

Mr. CURTIS. Hotels are exempt regardless of size, profit, or anything else.

Mr. McNAMARA. Yes.

Mr. CURTIS. Yet the Senator from Michigan resists an exemption for the Goodwill Industries, the Salvation Army, and other groups operating entirely for charitable and religious purposes. I cannot understand the logic of the position.

Mr. McNAMARA. Such industries are exempt except as those industries that the Senator mentioned and the great foundations of the country engage in the printing industry or in other activities which compete with private industry to such a degree that the competition would have a very adverse effect on private industry. Then, when such industry comes into competition in the marketplace with private industry, we say that their work is not charitable organization work. All their local activities are exempted.

Mr. CURTIS. I urge that the Senate agree to the amendment. There is no particular reason why the fine charitable and religious organizations of the country would wish to hold down wages. There is no profit in their activities for them. But there is a reason why they want to give employment to the handicapped. They would like to offer employment to the dedicated person who wishes to perform some of that kind of work and to be paid something. The coverage under the act interferes with their operation. I hope the Senate will agree to the amendment.

Mr. HUMPHREY. Mr. President, I yield back the remainder of the time on this side.

The PRESIDING OFFICER. Does the Senator from Nebraska yield back the remainder of his time?

Mr. CURTIS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nebraska.

The amendment was rejected.

Mr. YOUNG of North Dakota. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from North Dakota will be stated.

The LEGISLATIVE CLERK. On page 33, line 17 it is proposed to insert the following:

(17) Any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm: *Provided*, That no more than five employees are employed in the establishment in such operations.

Mr. YOUNG of North Dakota. Mr. President, I believe I can explain the amendment in a few minutes. However, I shall yield myself 5 minutes. The amendment would exempt country elevators that market farm products, mostly grain, for farmers. The question is not one of wages, because employees of these firms are paid considerably more than the minimum wage. It is a question of hours.

Farmers, particularly grain farmers, from spring to fall must work 50, 60, or 70 hours a week, and even more. If farmers ever had to limit their workweek to, say, 40 hours a week, food costs would be much higher than they are now. The employees of country elevators that serve farmers must work approximately the same hours farmers work. The amendment would affect only institutions that have five employees or less. Most country elevators have only one or two employees.

Mr. HUMPHREY. I hope the chairman of the subcommittee will accept the amendment, since it is a reasonable proposal.

Mr. McNAMARA. I was waiting for a Senator who is interested in this subject. He was on the same side of the question.

Mr. HUMPHREY. I think we should go ahead and vote.

Mr. McNAMARA. Speaking for the subcommittee, we are prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Dakota.

The amendment was agreed to.

Mr. HOLLAND. Mr. President, I have at the desk an amendment, which has not been printed, but copies of which I have furnished to Senators who are handling the bill. It is a very simple amendment. I ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 31, before the semicolon in line 21, insert a comma and the following: "and except as may otherwise be expressly provided by law the Secretary shall have no power to regulate, either through the withholding of benefits or services or otherwise, the wages and hours of employment of any such employee".

Mr. HOLLAND. Mr. President—

The PRESIDING OFFICER (Mr. METCALF in the chair). The Senator from Florida is recognized.

Mr. HOLLAND. Mr. President, the amendment I am offering was offered, in substance, last year, and was rejected. If I remember correctly, 42 votes were cast in favor of adopting the amendment. The amendment has been very carefully redrafted to avoid objections which were made last year. As to whether the meeting of these three ob-

jections is sufficient to change the position of any Senator, the Senate itself will have to be the judge. The amendment would provide—and I reread it—that at the end of the paragraph which exempts agricultural labor entirely, the following words would be added:

And except as may otherwise be expressly provided by law the Secretary shall have no power to regulate, either through the withholding of benefits or services or otherwise, the wages and hours of employment of any such employee.

Mr. President, the amendment applies only to wages and hours of agricultural employees. It applies only to the Secretary of Labor—any Secretary of Labor—who fixes wages and hours.

The first departure from the amendment of last year is that last year's amendment included the word "or other conditions of employment." That was held to apply to housing and other conditions, which might or might not be covered by the provisions of the Wagner-Peyser Act.

In the Wagner-Peyser Act there is not a single word which indicates that the Secretary of Labor was given power to fix wages and hours. Furthermore, as will appear from what I shall have to say, there is not a single word in the hearings on the Wagner-Peyser Act which indicates that that power was given to the Secretary of Labor.

The sole basis of my amendment is to provide that if a Secretary of Labor should try to impose a wage-and-hour condition as a condition precedent to making available his employment services to help farmers secure agricultural labor, he must look to a law, some law, any law, which gives him specific authority to impose a specific wage-hour condition. That is reasonable as a matter of law, and I believe it is completely reasonable to be considered in this particular act under discussion, because the amendment applies only to wages and hours and only to agricultural labor, which is the subject of the provision of law to which this amendment would be added.

The second difference between the amendment of this year and the amendment of last year is that the amendment of last year was not offered as an amendment to a section of the Fair Labor Standards Act. This time I have offered it as an amendment to that act, specifically as an amendment to the paragraph in the act which exempts agricultural labor from the act's wage-hour coverage.

The occasion for my amendment is that 2 years ago the Secretary of Labor advised the agriculturists of the Nation and Department of Agriculture, as well, that he proposed to place some limitations upon the service which he rendered, and was required to render, under the terms of the Wagner-Peyser Act. The limitations which he proposed would be applicable only to the furnishing of agricultural labor, and would be applied in such a way as would have required the various employers who were trying to avail themselves of the services of the Federal Employment Service to give certain assurance in advance about the pay scale for the agricultural labor which

would be furnished, the hours and other conditions of employment mentioned in the proposed order of the Secretary of Labor.

As to the other conditions of employment mentioned in that order, my amendment does not make reference to them or relate to them. The difference in the situation between now and then is that last year when the matter came up there was contention on this subject, because the then Secretary of Labor had proposed to issue and had issued, in fact, a formula for dealing by regulation with this subject matter. The matter was a matter in contention at the time. I understand that there is no such situation at this time. I was advised by counsel for the Labor Department, in a joint conference with the able Senator from Michigan the other day, that there is no intent at this time to inflict such a condition. I was also advised that litigation is pending on the Secretary's refusal to extend the services of the U.S. Employment Service under certain conditions.

That litigation was represented to me as pending in a California court.

I have since taken the trouble to ascertain what the litigation was about. I may say it did not relate to wages and hours, but did relate to the question whether the Secretary of Labor could withdraw his services in supplying labor to an employer when the employees of the employer were on strike and a labor difficulty was in progress.

We do not seek to apply the present amendment in the Wage and Hour Act to the Secretary's powers in that kind of situation or to any other aspect of the matter than the fixing of wages and hours.

When the Secretary of Labor announced that he planned to place some restrictions upon the use of the employment service, it occasioned great surprise to many of us, because we had always felt that the Wagner-Peyser Act gave no authority whatever for the making of any regulations or rules by the Secretary of Labor in this field, but, instead made of the Federal Employment Service an agency, purely and simply, through which the State employment services and the people asking for help from the State employment services might secure aid in finding workers beyond the limits of their States. I think it is appropriate therefore, to consider in some detail the provisions of the Wagner-Peyser Act and the facts concerning them.

In 1933, Congress approved the Wagner-Peyser Act, which provided a grant-in-aid program for the creation of State employment services and created a Federal agency to coordinate their programs. Language pertinent to the question to be developed in this portion of my remarks was contained in sections 3 and 12 of the Wagner-Peyser Act, as follows:

SEC. 3. It shall be the province and duty of the Bureau to promote and develop a national system of employment offices * * * to assist in establishing and maintaining systems of public employment offices in the several States. The Bureau shall also assist in coordinating the public employment offices throughout the country and in increasing

their usefulness by developing and prescribing minimum standards of efficiency, assisting them in meeting problems peculiar to their localities, promoting uniformity in their administrative and statistical procedures, furnishing and publishing information as to opportunities for employment and other information of value in the operation of the system, and maintaining a system for clearing labor between the several States.

Section 12, which also bears on this problem, reads as follows:

SEC. 12. The Secretary of Labor is authorized to make such rules and regulations as may be necessary to carry out the provisions * * * of this title.

Those, as I am told by my legislative assistant, are the only two sections of the act which are related to this particular subject matter or which could be held to relate thereto. It is very obvious that no reference is made to wages and hours of employment or to anything in that field.

Mr. President, in reading section 3, in which the functions of this Bureau are stated, I believe it is rather clear that no power at all was given by the section to provide rules that would determine the amount of wages or hours which must be met before the facilities of Federal employment agency could be used.

When the Attorney General was asked to rule on the statutory authority which the Secretary of Labor has asserted—that was the year before last and last year—he gave the weakest possible support to the Secretary in the following words, this opinion related not only to the wages and hours part, but to the housing and other conditions. He stated:

I would not be justified in advising you that the construction is in fact erroneous in the absence of a clear and convincing showing of error. In my opinion, no such showing has been made.

Mr. President, I have practiced law for a good many years, and I have been called upon for a good many opinions. I think I know what would be a strong opinion upholding the position of a client or of an agency which has requested advice. I can find no weaker statement which could be made by an Attorney General or by whoever in his office drew up this opinion, than the one included within the quoted words. He stated, I repeat:

I would not be justified in advising you that the construction is in fact erroneous in the absence of a clear and convincing showing of error. In my opinion no such showing has been made.

I call attention to the fact that much more than the wage-and-hour question was involved there.

The only words I can apply, Mr. President, which appear to me to be adequate, are that those are weasel words, because they do not at all affirmatively uphold the construction of the statute requested by the Secretary of Labor and relied upon by him.

Competent authorities have questioned this opinion. In that connection, I refer to pages 111 to 126 of hearings of House Agriculture Committee on House bill 9869 and other bills, March 22–31, 1960—that is, last year.

The following is the opinion of the Chief of the American Law Division of the Library of Congress, one who is wholly impartial in this matter. He is a referee who is paid by the Government to render impartial opinions on the meaning of legislation, and of course he renders them from a background of very extensive experience and practice in this field. Here is what he says:

On this point, we have scanned the reports and debates on the Wagner-Peyser Act of June 6, 1933 (48 Stat. 113; S. 510, 73d Cong.), and do not find any indication that the Members sponsoring or debating the measure had in mind that the Employment Service was to exercise any substantive control over the working conditions and terms of employment of workers recruited by the Service.

Again, those words are more general than to apply only to the wages and hours of employment.

At the same time, it is obvious that regulations purporting to require compliance with substantive standards as to housing, working conditions, etc., have been in effect since 1951. We do not see how mere lapse of time can confer authority not stated by law.

The opinion related to housing and other matters and stated that even though those features had been included in the regulations for some years, no authority could be found for them. We make no argument at this time about that authority, because, as I understand, the bills introduced by the distinguished Senator from New Jersey [Mr. WILLIAMS], who is in the Chamber, would specifically cover that question. As a matter of fact, I have joined with him in large part in his proposed law with respect to housing. I hope the Senate may pass something which will specifically deal with that part of the problem. It is my understanding that the Senator from New Jersey has pending proposed legislation on wages and hours of agricultural employment. That, again, is an indication that he wishes Congress to come to grips with the specific problem involved in the amendment by way of legislation. That is the correct way to proceed, and for that I compliment and congratulate him.

A former solicitor of the Department of Labor, William S. Tyson, says—as appears on page 123 of aforesaid hearings:

Neither the statutory language nor the legislative history of the Wagner-Peyser Act, evidence any intent by the Congress to delegate or confer upon the Secretary of Labor authority to issue the amendatory regulations to part 602, title 20, Code of Federal Regulations, which he proposes in the document of March 13, 1959. It is evident here that the Secretary is trying to do indirectly what he is not authorized to do directly.

That is the document which was in controversy last year, and to which I have already referred.

The counsel of the House Agriculture Committee, Mr. Heimbarger, has made a statement on this matter; it appears on page 113 of the aforesaid hearings. I have found Mr. Heimbarger to be a very able attorney in this field. He sits with the conferees on agricultural laws and has been of immeasurable assistance to the conferees, both from the House of

Representatives and from the Senate, on many agricultural problems. This is what he said about the question, as shown in the hearing:

In summary, it is our position that the Wagner-Peyser Act is a service statute, not a regulatory statute, and that there is nothing in the act nor its legislative history which supports the assumed authority of the Secretary of Labor to issue the regulations proposed by him on March 13, 1959, and that, on the contrary, the statute and its legislative history make it clear that there is no authority under that act for the Secretary to issue regulations affecting users of the service except as provided in subsection 11(b) thereof, that when Congress intends for working conditions of agricultural labor to be regulated it makes clear and specific provision therefor, and that any effort to promulgate such regulations in this instance is in derogation of the powers of Congress to legislate.

I think that the real question before the Senate is whether Congress, by the adoption of this amendment, should make it clear that we insist upon our right to consider and pass legislation which will govern in this field, if in our judgment we feel that it should be passed. We are asked to pass, in the committee bill, a section which completely exempts agricultural labor from any kind of wage-and-hour regulation.

It is highly appropriate, Mr. President, that the proposed amendment be added at the end of paragraph (6) of section 13(a) of the Fair Labor Standards Act, as my amendment suggests. This is the paragraph which specifically exempts agricultural employees from wage-hour coverage, clearly showing a congressional intent that such employees are not to be subject to this type of regulation. By assuming power to set wages and hours of agricultural employment, the Secretary of Labor—I speak now of the former Secretary of Labor—has arrogated to himself a power which Congress has not seen fit to delegate to any administrative official. To the contrary, Congress has retained this power, which it exercises by means of legislation such as the bill which we are now considering here. It is Congress, not any administrative official, which decides that minimum wages shall be a \$1, \$1.15, or \$1.25 per hour, as would be prescribed by the bill. It is Congress, not any administrative official, which decides that this group or that group is to be covered by wage-hour laws. Congress makes these decisions by law, as is its responsibility under the Constitution.

When, without official authorization by Congress, the Secretary of Labor determines that agricultural employees shall be subjected to such regulations, under the power to operate an employment service, and that no other type of employee is to be so subjected, the Secretary of Labor is exercising a legislative power, not an administrative power. This he is also doing when he determines that minimum wages shall be 75 cents, \$1, or \$1.25 per hour, and when he determines maximum hours for such employment.

Mr. President, it is of extreme importance to the preservation of our system of government that we take this opportunity to strike down this seizure of

legislative power, or at least to protest against this seizure of power, which was attempted last year. I say, to the credit of the present Secretary of Labor, that I know of no effort on his part. On the contrary, the other day I was advised by an attorney of his Department that there was no attempt on his part to assume such power.

Mr. President, it has been well said, "No Congress, no freedom." I urge the adoption of this amendment.

Mr. President, at this time I wish to read from the RECORD a statement which I think will put our distinguished majority leader [Mr. MANSFIELD] very directly on our side in connection with this matter. Yesterday, in opposing the Prouty amendment, the distinguished Senator from Montana, our majority leader, used words which it seems to me are directly applicable to a situation of that sort. We remember that the Prouty amendment proposed that the Secretary of Labor be given authority to suspend certain portions of the law under certain circumstances. Now I quote a statement made yesterday by the Senator from Montana:

The amendment gives extraordinary power to the Secretary of Labor, and I, for one, do not wish to see any Cabinet officer given the power which is embodied in this amendment, as I interpret it.

Mr. President, it seems to me that it would be much worse for the Congress to permit, by default, the Secretary of Labor or any Secretary of Labor to exercise powers not specified in law, than it would be to give him such powers by means of this law.

I regret that this amendment has not been accepted, because it seems to me completely fundamental to the legislative process that it be accepted, particularly in time of peace, when there is no controversy in this field.

So I hope the Senate will adopt the amendment.

Mr. LAUSCHE. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I yield.

Mr. LAUSCHE. Is it the position of the Senator from Florida that if there is to be any regulation of wages and working hours in agriculture, that should be achieved through legislation directly enacted by the Congress?

Mr. HOLLAND. It certainly is, especially when any assumption of power by a Cabinet official flies in the face of a specific section of this act which states, in so many words, that that class of labor shall not be affected, but shall be exempt from the wage and hour provisions.

Mr. LAUSCHE. The Senator from Florida is protesting, is he, against a situation in which, under the guise of rendering employment service, as a condition to obtaining that service a farmer must subject himself to such action by the Secretary of Labor, in telling the farmer what working hours and wages he shall provide?

Mr. HOLLAND. The Senator from Ohio is correct. I think that situation would not be tolerable unless Congress itself empowered the Secretary of Labor to do that very thing. But no such

power appears from the act. The record of the hearings is silent upon that point; and the record of the debate is silent upon it. No such power was undertaken earlier, and no such power is being undertaken now. We simply wish to guard against the making of any attempt to assume the power which was sought to be assumed last year.

I must say that I understand that the then Secretary of Labor relinquished his plan, at some stage following our debate. But on that point perhaps the Senator from New Jersey can inform us better. I have not heard of any effort to enforce that regulation affecting wages and hours, since that time; and if there has been such an effort, I am not advised of it.

Mr. LAUSCHE. Will the Senator from Florida summarize the legal opinions expressed in regard to the right of the Secretary of Labor to exercise this power, in the absence of a direct authorization by Congress?

Mr. HOLLAND. There were three opinions, and they have been read into the RECORD. All of them appear in the hearings. The first was from the Attorney General. That opinion stated as near to nothing as it would be possible to state in an effort to be helpful. I now read the Attorney General's statement:

I would not be justified in advising you that the construction is in fact erroneous in the absence of a clear and convincing showing of error. In my opinion no such showing has been made.

That was written by someone in the Office of the Attorney General or in the Department of Justice.

The next opinion I shall read is from the Research Chief of the American Law Division of the Library of Congress:

On this point, we have scanned the reports and debates on the Wagner-Peyser Act of June 6, 1933 (48 Stat. 113; S. 510, 73d Cong.), and do not find any indication that the Members sponsoring or debating the measure had in mind that the Employment Service was to exercise any substantive control over the working conditions and terms of employment of workers recruited by the Service.

At the same time, it is obvious that regulations purporting to require compliance with substantive standards as to housing, working conditions, etc., have been in effect since 1951.

But none as to wages and hours, I may interpolate.

The opinion concludes as follows:

We do not see how mere lapse of time can confer authority not stated by law.

The third opinion was stated by William S. Tyson, a former Solicitor of the Department of Labor. He stated:

Neither the statutory language nor the legislative history of the Wagner-Peyser Act evidences any intent by the Congress to delegate or confer upon the Secretary of Labor authority to issue the amendatory regulations to part 602, title 20, Code of Federal Regulations, which he proposes in the document of March 13, 1959. It is evident here that the Secretary is trying to do indirectly what he is not authorized to do directly.

The last statement, and the most recent one, was made by Mr. Heimbarger;

and I have the highest respect for his legal ability and his experience in the legislative field, particularly in the field of agricultural legislation. His statement is the long one which I now hand to the Senator from Ohio.

Mr. LAUSCHE. My final question is this: Is it the purpose of the amendment of the Senator from Florida to clarify this issue and to make certain that the Secretary of Labor will not attempt, as a condition to the rendering of employment service, to fix, by regulation, hours and working conditions?

Mr. HOLLAND. Yes, unless he is given such power by law. The amendment contains the words, "except as may otherwise be expressly provided by law."

Mr. LAUSCHE. I assume that the Senator from Florida takes the position that in connection with a vital question of this type, it ought not be left to the whim of the Secretary of Labor to decide what the working conditions and hours shall be, but that the Congress itself should pass directly upon that matter.

Mr. HOLLAND. I think the Congress should pass upon it; and I do not believe that any Cabinet official should have that authority, unless it were specifically given to him.

Mr. LAUSCHE. And the Secretary of Agriculture—

Mr. HOLLAND. The Senator from Ohio has inadvertently referred to the Secretary of Agriculture. I wish to say that the Secretary of Labor is the one who is involved in this instance.

Mr. LAUSCHE. Yes.

Mr. HOLLAND. The Secretary of Labor and the Secretary of Agriculture were on opposite sides of the fence, as regards the proposed regulation of last year which we have been discussing. In other words, the Secretary of Labor wanted to promulgate such a regulation, but the Secretary of Agriculture opposed it.

The PRESIDING OFFICER. The time available to the Senator from Florida has expired.

Mr. HUMPHREY. Mr. President, I yield such time to the Senator from New Jersey [Mr. WILLIAMS] as he may need.

Mr. WILLIAMS of New Jersey. Mr. President, I feel I can be brief in my opposition to the amendment offered by the distinguished senior Senator from Florida. Most Senators have had an opportunity to express themselves on the substance of the pending amendment. Last year the substance of this amendment was offered by the distinguished Senator from Florida, and the amendment was rejected on a vote of 56 to 42.

Last year, as one of those who engaged in the debate, I was unable to express the opinion of the then Secretary of Labor on the substance of the amendment that was offered. I did not have either a report or a letter from the then Secretary, giving us the benefit of his conclusion on the amendment. However, today the situation is different, and the present Secretary of Labor has spoken firmly and eloquently in opposition to the amendment.

I should like to read into the RECORD the text of the letter, under date of April 18, 1961, addressed to me from Secretary Arthur J. Goldberg, because it

contains all of the compelling reasons why it would be unwise, unjust, and a very unhappy result to have the amendment made a part of the legislation we are considering. This is the letter of which I want Senators to have the benefit:

This is to express my opposition to the amendment proposed by Senator SPESSARD HOLLAND of Florida to Section 13(a)(6) of the Fair Labor Standards Act. This amendment would add at the end of that subsection the following: "and except as may otherwise be expressly provided by law, the Secretary shall have no power to regulate, either through the withholding of benefits or services or otherwise, the wages, hours, or other conditions of employment of any such employee."

While the language of this proposal is ambiguous, it is apparently designed to prohibit the Secretary of Labor from keeping in effect certain regulations which were issued shortly after the enactment of the Wagner-Peyser Act in 1933 and amended in 1959. The regulations prohibit the use of the public employment offices to recruit workers from one State for employment in another State under terms and conditions of employment which would undermine the prevailing working conditions in the area of employment. Regulations and policies substantially similar are applicable both to agriculture and to industrial employers.

The most serious effect of this amendment would be upon our own migrant agricultural workers. Its apparent intent is to impose a requirement upon the Secretary of Labor to use the farflung facilities of the nationwide system of public employment offices to recruit workers, when so requested, even if the terms offered would undermine the prevailing wages and conditions of employment in the area in which the worker will be used.

The amendment is discriminatory against a segment of our labor force whose plight is causing this Government increasing concern. Our agricultural migrant workers are already at the bottom of the economic scale. The shameful conditions under which they work and live are a matter of extreme embarrassment to the United States. There has been increasing public clamor for governmental action to better their standard of living.

Despite the need for affirmative help, it is important to note that the regulations which Senator HOLLAND's amendment would strike down are not designed to require improved employment conditions for our migrant workers. Their purpose is solely to assure that the U.S. Government does not provide the vehicle for further depressing their pitifully inadequate living and employment conditions. These regulations simply require employers who seek the assistance of the public employment office in recruiting agricultural workers to abide by the prevailing practice in the area of employment. It appears to me that this is the minimum that can be expected from a governmental agency when it is requested to undertake recruitment on behalf of any employer.

This is no greater protection than is afforded alien workers brought into this country for employment.

The Secretary of Labor under present law will not make the statutory certifications required before alien workers are admitted for temporary employment in the United States unless the employers offer to such workers the wages and conditions of employment prevailing in the area of employment. No one advocates that the Secretary be required to recruit and bring in foreign workers at less favorable conditions.

For these reasons I express my firm opposition to the proposed amendment.

Yours sincerely,

ARTHUR J. GOLDBERG,
Secretary of Labor.

The point I wish Senators to understand is that, without this regulation, the employment services could be used for the recruitment of workers for employers who are undercutting other employers in the region of recruitment.

The second point is that we are only doing for our domestic workers what is written throughout treaty, law, and regulation for foreign workers who are brought to our shores to work in agriculture.

Finally, this is not a regulation that fixes wages or hours. It is only a regulation that says to an employer, "If you are going to use the U.S. Employment Service, your wages and your hours must be as good as the prevailing wages and the prevailing hours in the region where you want to use Government recruited workers."

For those compelling reasons, Mr. President, I trust the Senate will do today what it did a little less than a year ago, and reject the amendment offered by the distinguished Senator from Florida.

Mr. HOLLAND. Mr. President, will the Senator yield 2 minutes to me?

Mr. MANSFIELD. I yield 5 minutes to the Senator from Florida.

Mr. HOLLAND. I want to make it clear that, before we can get any outside workers, we must have a certificate from the Secretary of Agriculture reciting that domestic workers at prevailing wage rates are not available. It is required by law. So that particular point is not at all germane to this discussion. We are not permitted to import offshore laborers, or laborers from Mexico, without such a certification from the Secretary of Agriculture, which means, of course, he has a right to see whether or not prevailing conditions are met.

I was told by the attorney from the Department of Labor that there was no present intention for the Secretary of Labor to undertake any such program at this time. That is the reason why I felt this was the appropriate time, when there was no such program, and when the only litigation pending—that in California—deals with another part of the regulations, for the Congress to assert itself by saying that no one has the authority to fix wages and hours except Congress itself, and that, unless Congress has done such, or has given the general range of authority to an agency or a Cabinet officer to do so, that agency or authority should not assume to do so.

It seems to me this is the appropriate time and place for us to do that very thing. Unless I am misinformed, the present Secretary of Labor has no intention of departing from the provisions of the law which has already been referred to, under which he cannot make a certificate to obtain labor from the outside, which is a necessity for the doing of stoop labor that is necessary for the harvesting of our seasonal crops, unless he first certifies that domestic labor is not available under prevailing wage rates.

He goes further than that, and I think he has the right to go further than that, not only in our Florida situation, with which I am thoroughly familiar. Last year he required us to establish a recruiting office as far away as Missouri.

We were glad to do it. We went as far as the Secretary of Labor required, and met his conditions as far as possible. We do not want him to assume to fix wages and hours. We do not think the present Secretary of Labor wants to do that. If he does, we do not think he should be able to do it without pointing to specific legislative authority.

The PRESIDING OFFICER. Does the Senator from Montana yield back the remaining time?

Mr. MANSFIELD. Mr. President, I yield back the remainder of the time on this side.

The PRESIDING OFFICER. The time has been yielded back. The question is on agreeing to the amendment offered by the Senator from Florida [Mr. HOLLAND].

The amendment was rejected.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. How much time remains on the bill?

The PRESIDING OFFICER. The proponents have 34 minutes remaining and the opponents have 58 minutes remaining.

Mr. MANSFIELD. How much time does that total?

The PRESIDING OFFICER. One hour and 32 minutes.

Mr. RUSSELL. Mr. President, the distinguished junior Senator from Mississippi [Mr. STENNIS] has worked on an amendment for several years, and has permitted me to be associated with him as a sponsor, along with my colleague [Mr. TALMADGE], the senior Senator from Mississippi [Mr. EASTLAND], and the Senators from Alabama [Mr. HILL and Mr. SPARKMAN]. For those Senators and myself, I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 32, line 15, it is proposed to strike out the word "ginning".

On page 33, line 17, change the period to a semicolon and add "or," and after line 17, add the following new paragraph:

(16) Any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities.

Mr. RUSSELL. Mr. President, the amendment relates to a very small group of persons, but it would eliminate what to my mind is the greatest injustice which grows out of the present regulations in applying the law.

The chart which I hold in my hand very graphically illustrates the situation. I do not have to use a chart, for I live in a farming county where cotton is grown in commercial quantities. I live out of town, so it is not a street, but across the road from my home is a young man who has a cotton gin, which is located within one mile of the city limits of the city of Winder, Ga. Down the road four or five miles from my home is located another cotton gin which is not bound by the wage-and-hour law. The man who is within the

1-mile limit of the town which has above a 2,500 population is handicapped in that degree.

If this were strictly a commercial matter, Mr. President, the injustice might be justified, but it so happens this comes out of the pockets of the farmers for the first processing of agricultural commodities, which have uniformly been declared to be exempt from the operations of the law. If the other first processing is to be bound by the law, of course the cotton gins should be, also, but it is not fair to have one man within a few miles of his neighbor operating under regulations which cause him to proceed at a great disadvantage.

I hope the amendment will be agreed to.

I assure the Senate I was never more sincere in my life when I say this is a manifest injustice upon one of two men engaged in the same business in a very remote rural area.

Mr. McNAMARA. Mr. President, despite the fact that the provision is in the present law and not in the pending bill, I think the justice of the argument advanced by the Senator from Georgia and other Senators warrants the committee accepting the amendment. Speaking for the committee, I accept the amendment.

Mr. HUMPHREY. Mr. President, I yield back the remainder of my time.

Mr. RUSSELL. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Georgia [Mr. RUSSELL], for himself and other Senators.

The amendment was agreed to.

Mr. WILLIAMS of Delaware. Mr. President, I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. At the appropriate place in the bill it is proposed to insert the following:

That section 13(d) of the Fair Labor Standards Act of 1938, as amended, is amended by inserting before the period at the end thereof the following: "or to any homemaker engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths)".

Mr. WILLIAMS of Delaware. Mr. President, I have consulted with the chairman of the subcommittee in regard to the proposed amendment. The amendment is identical in language with the amendment which was agreed to last year on the bill, S. 3758, accepted by the then Senator Kennedy, chairman of the subcommittee.

The amendment relates to homeworkers engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens.

Mr. McNAMARA. Mr. President, the committee accepted the amendment last year. Since the amendment is in the same language I think the committee will accept the amendment again, taking the same action.

Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS of Delaware. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment offered by the Senator from Delaware [Mr. WILLIAMS].

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 3935) was read the third time.

Mr. MANSFIELD. Mr. President, some Senators will wish to speak on the bill. Some will speak tonight and others will speak tomorrow. I think the Senate should be put on notice that the vote on passage of the bill will not take place until tomorrow, I hope shortly after the conclusion of morning business.

Mr. President, is there further business to come before the Senate at this time?

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, notified the Senate that, pursuant to the provisions of 10 U.S.C. 4355(a), the Speaker had appointed Mr. MINSHALL of Ohio, vice Mr. JONAS excused, as a member of the Board of Visitors to the U.S. Military Academy on the part of the House.

DEATH OF WARD E. DUFFY

Mr. DODD. Mr. President, the passing of Ward Duffy, editor of the Hartford Times, comes as a personal loss that will be sorely felt by all who knew him.

It was my good fortune to know Ward Duffy for many, many years. Over the years I went to him for advice and counsel again and again. I was always helped and strengthened by this warm, honest, astute, selfless human being.

Ward Duffy helped to build a great newspaper in Connecticut, the Hartford Times. He gave to it his own qualities, rugged integrity, intellectual power, compassion, and personal honesty. He gave of himself richly to his community and to an ever-widening circle of friends. In his passing, all of us have lost something that cannot be replaced.

I ask unanimous consent to have an editorial and two news items from the Hartford Times of April 17 printed at this point in the RECORD.

There being no objection, the editorial and articles were ordered to be printed in the RECORD, as follows:

[From the Hartford Times, Apr. 17, 1961]

WARD E. DUFFY

A man who devotedly participates in the public service of journalism for 44 years, as did Editor Ward Everett Duffy, leaves memorials to his career in countless places. More than many men, Mr. Duffy spread his good works in a manner most beneficial to the community and to the State.

Perhaps his leading civic service was given through his thorough knowledge and by his unremitting industry, in the field of natural resource conservation. To the day of his death, he had maintained active connection with the State, interstate, and Federal organizations and commissions of which he was a member.

Quietly, but persistently, he had worked for pure water resources, for flood control, for the preservation of our woodlands, for the extension of State parks.

At other times, and on other occasions he was known as the personal and editorial champion of physical fitness for youth through means of the YMCA; for wider educational opportunities both for youth and adults; and he never wavered in his support of reform and responsibility in State and local governments.

One telling of his public career over such a span of years can only feel capable of sketching it inadequately, so much of Mr. Duffy's help and assistance was offered through advice privately given to others who then went out to achieve good works.

But it was on the personal level that those who long worked with him respected him most.

He was a careful and meticulous editor who had little patience for the windy, wandering paragraph or obscure meanings. Mr. Duffy demanded writing that was clear and was backed by facts.

He had the deepest appreciation for Connecticut history and traditions, in which he was well versed.

Mr. Duffy was a gentleman; considerate, kindly—his sympathetic emotions rather easily aroused—but with a fine sense of perception that made it quite useless to try to play on his sympathies.

He had an innate concern for the unfortunate and the underdog; and a sound respect as well for those who, by hard striving, had gained it by the character of their contributions to business and civic life.

Mr. Duffy had served the Hartford Times during a long period of its remarkable growth in readership and prestige. He always claimed that for the newspaper he proudly piloted and the community he served, the best days are ahead.

His own contribution helped to make it so.

[From the Hartford Times, Apr. 17, 1961]

INDEPENDENT THINKING MARKED DUFFY CAREER

Ward Everett Duffy, 69, editor and chief editorial writer of the Hartford Times since 1953, who died Sunday, retired January 1 after 44 years as a newspaperman.

Thirty-nine of those years he spent with the Hartford Times, as reporter, assistant city editor, managing editor, associate editor, and editor.

His career was marked by independent thinking and devotion to principles he had set for himself. These were traits he may have learned from his parents, two highly original people, who unhesitatingly spoke up for what they believed to be right, whether their cause was popular or unpopular.

Mr. Duffy was born in Mooers, in upstate New York, May 26, 1891. His father Frederick, was a high school teacher who later became a school superintendent. But the elder Duffy had always yearned to be a farmer, and was constantly reading about dairy cattle.

In the early 1900's he gave up his school career, moved to West Hartford, and on a farm on North Main Street, began raising Jersey cattle. Established farmers were inclined to scoff at the "book learned" dairy farmer. But it was not long before the Duffy family had a successful milk route, on which young Ward worked. In time, Frederick Duffy became an outstanding judge of Jersey cattle, traveling as far as California on judging assignments.

Ward Duffy went to West Hartford schools and Trinity College. In 1915 he received his bachelor of science degree from Trinity and in 1916 his bachelor of literature degree from Columbia School of Journalism.

That same year he went to work for the Manchester Herald as a reporter. In 1918, after training at Plattsburgh, N.Y., he went to France as a second lieutenant with the 303d Field Artillery, American Expeditionary Force. In Paris at the end of the war he became one of the founding members of the Exiles of Hartford, a war-born society which continues to meet.

With the end of the war he returned to Manchester and his work on the Herald. In time he became that paper's managing editor and editorial writer. On his return from military service, management of the paper gave him a leather briefcase. In 1921 Mr. Duffy went to Hartford to cover a Democratic meeting. After he turned in his story he learned that the Republican publisher was not going to print the story without substantial changes. This was against Mr. Duffy's concept of unbiased journalism. The next morning he reported to work punctually, threw the briefcase the length of the newsroom, told the publisher: "There's your briefcase back, and left for good. The same year he joined the Hartford Times as reporter.

Between busy days as a newspaperman and activity on civic and church affairs in West Hartford, Mr. Duffy and his wife, Louise Day Duffy, married in 1915 raised a houseful of children in the rambling farmhouse his father had owned at 208 North Main Street. In order came David, Alice, Douglas, Elizabeth, and Virginia. When they were old enough, they went on canoe trips with him down the Farmington and Connecticut Rivers. Summer vacations they spent at his wilderness cabin on a lake in the Adirondacks.

Out of his knowledge of the outdoors and of wildlife came his keen interest in preservation of natural resources including waterways and watersheds. In later life he played an active part in the Connecticut River Watershed Council as director and president. He was also a director of the Forest and Park Association of Connecticut and a member of the Connecticut Water Resources Commission. He traveled the length of the Connecticut River many times, furthering the goals of the Watershed Council in innumerable meetings in towns and cities. One of his favorite magazines was the Conservationist, published by the New York Conservation Department.

He was one of the founders and was at one time president of the Foreign Policy Association of Hartford and he took a keen interest in bringing to Hartford speakers with genuine foreign experience who could make a contribution to better understanding of foreign affairs. Several years ago he and Mrs. Duffy were hosts to a houseful of Africans, followers of a world brotherhood movement, who were touring the country.

He put his knowledge of foreign affairs to work in his crisp, sharply written editorials. And he put into practice his unyielding belief that America was too big to be narrow-minded about race or creed.

One day about 10 years ago, working on Sunday with a small crew of newsmen, he suggested they all go to lunch with him at the Heublein. There had been a mild

outbreak of anti-Semitism in the city by youngsters. On the way to the Heublein he saw the word "Jew" scrawled in soap on a bookstore window.

He stopped in his tracks, pulled out his handkerchief, and rubbed the word off the windows while his companions watched. Then he went on with them to lunch.

He was a tireless reader and had a great affection for the work of libraries and schools. He had a well filled library at home, but was one of the constant users of the West Hartford Library from the days when it was housed in the Congregational Church. He spoke frequently before library and school groups.

He had a broad fund of knowledge of Connecticut history and politics and was a constant attender of art exhibits and concerts. And both he and his wife had a weakness for auctions. His main interest at auctions was Chinese rugs and ceramic pieces, and he was a highly discerning buyer. Most of the auctioneers in central Connecticut knew him by name.

His interest in conservation embraced wildlife, waterways, and forests. In a speech at the annual field day of the Connecticut Agricultural Experiment Station in 1957, he deplored the loss of trees in many parts of the State "in the name of progress."

Have any of us done all we can to establish the idea that trees should be cared for and, above all, that they should be planted?" he asked. "The time has come when it is not enough to plant one tree cut because of age, disease, or what some folks are daffy enough to call real-estate developments. For quite a long time we should be planting at least two trees for every one we lose."

He urged that in State and city parks and roadside areas labels be affixed to trees describing them so young people could learn the various species and realize they are community assets.

Of Hartford he once said: "I am a man from Hartford, where we have an Oak Street with nary an oak, a Cedar Street with not a cedar, a Walnut Street with no walnuts, and a Chestnut Street on which there is one chestnut, albeit of the genus *hippos*."

And of his hometown, West Hartford, and its tree program he said, "We are engaged right now in putting the powersaw to maple after maple so that people in the south end can get to the north end shopping center faster, and those at the north end can speed to the shopping center at the south end of town."

During his long career in newspaper work, he took an active part in dozens of organizations ranging from the Hartford Get-Together Club, a discussion group of which he was a founder, to the Hartford YMCA of which he was a trustee.

Early this month Mr. Duffy was notified he had been appointed to the new National Advisory Committee on Multiple Use of National Forests. The appointment came from the head of the U.S. Forest Service, Dr. Richard E. McCardle. Mr. Duffy had planned to attend the first meeting of the advisory group May 2, in Washington.

During a recent period of rest in Hartford Hospital, a nurse entered Mr. Duffy's room early in the morning and found him with his hands pressed to his eyes.

"What are you thinking?" she asked.

He took his hands away from his head and replied:

"Well, since you asked, I'll tell you. I was thinking how many things we receive when we say: 'Give us this day our daily bread.'"

Honorary bearers for the funeral include: Gov. John N. Dempsey, former Gov. A. A. Ribicoff, Senator Prescott Bush, Senator Thomas J. Dodd, former Senator William A. Purtell, Chief Justice Raymond J. Baldwin, Probate Judge James Kinsella, Meade Alcorn, John Alsop, Paul Miller, Vincent Jones,

April 20, 1961

3. MINIMUM WAGE. By a vote of 65 to 28, passed with amendments H. R. 3935, to amend the Fair Labor Standards Act to provide for the coverage of additional workers and to increase the minimum wage gradually to \$1.25 an hour. pp. 5971, 5975-81, 5983-92, 6059-60
4. TAXATION; COOPERATIVES. Both Houses received the President's message on Federal taxation (H. Doc. 140) (pp. 5992-98, 6078-83). Regarding the taxation of cooperatives the President recommended "that the law be clarified so that all earnings are taxable to either the cooperatives or to their patrons, assessing the patron on the earnings that are allocated to him as patronage dividends or refunds in scrip or cash. The withholding principles recommended above should also be applied to patronage dividends or refunds so that the average patron receiving scrip will, in effect, be given the cash to pay his tax on his patronage dividend or refund The exemption for rural electric cooperatives and credit unions should be continued."
- Several Senators commended the message. pp. 5999, 6022-3. 6029, 6047-8
5. ACREAGE ALLOTMENTS. Passed as reported S. 1372, to authorize the temporary release and reapportionment of pooled acreage allotments. p. 6018
6. NOMINATIONS. Confirmed the nomination of Howard Bertsch to be Administrator of Farmers Home Administration and the nominations of Julian B. Thayer and Joe B. Zeug to be members of the Federal Farm Credit Board, Farm Credit Administration. p. 5959
7. FARM HOUSING. Sen. Hartke commended the farm housing program, stating that there is an extensive and continuing need for this type of credit service to farm owners and that almost "1,500 applications were received during February, and this number was 45 percent greater than the number received during February last year." pp. 5972-3
8. PEACE CORPS. Sen. Kerr inserted the text of a factbook which attempts to answer some of the basic questions about the Peace Corps program. pp. 6019-21
9. PATENTS. Sen. Humphrey inserted an article, "Federal Contract Patent Policy and the Public Interest," which deals with the arguments for relinquishing title to patents, the real costs of relinquishing title, reasons why Government should take title, and the goals of our society as contrasted with the U. S. S. R. pp. 6048-54
10. RURAL DEVELOPMENT. Sen. Proxmire inserted two articles discussing industrial development of rural areas, "Rural Industry Agency is Freeman Objective" and "Rural Industry." pp. 6053-59
11. WATER POLLUTION. Sen. Morse inserted a memorial from the Oregon legislature endorsing the establishment of a Pollution Control Laboratory in the Pacific Northwest. p. 6066
12. ADJOURNED until Mon., Apr. 24. p. 6069

HOUSE

13. SURPLUS COMMODITIES; FOREIGN TRADE. The Rules Committee reported a resolution for consideration of H. R. 4728, to amend Public Law 480 so as to provide an additional authorization of \$2 billion during 1961 under title I for sales of surplus commodities for foreign currencies. p. 6084

14. FARM BILL. Rep. Schwengel criticized the conservation reserve program item in the new farm bill, saying "The very absence of constructive reference to this important subject might lead one to believe that conservation practices by the present administration have diminished in importance." p. 6134
15. COMMITTEE APPOINTMENTS. Reps. Colmer and Westland were appointed to the National Forest Reservation Commission.
Reps. Pfof, Rivers (Alaska), Saylor, and Kyl were appointed to the National Outdoor Recreation Resources Review Commission. p. 6078
16. LEGISLATIVE PROGRAM. Rep. McCormack announced that the conference report on S. 1, the depressed areas bill, will be considered on Wed., to be followed by consideration of H. R. 4728, to amend Public Law 480. pp. 6117-8
17. ADJOURNED until Mon., Apr. 24. p. 6144

ITEMS IN APPENDIX

18. WATER RESOURCES. Sen. Hartke inserted a speech by Sen. Kerr at the annual meeting of the Wabash Valley Association, Inc., on water conservation and resource development. pp. A2660-2
19. ST. LAWRENCE SEAWAY. Extension of remarks of Sen. Wiley expressing his opinion that expansion of traffic through the seaway offers great opportunity for economic growth and progress, and insertion of excerpts of his radio address on this subject. pp. A2663-5
20. TEXTILES. Extension of remarks of several Representatives expressing a need for restrictions on textile imports, and insertion of articles and statistical data to support their opinions. pp. A2665, A2703, A2706-7, A2714
21. WILDLIFE. Extension of remarks of Sen. Bartlett and insertion of an Alaska newspaper editorial commending the appointment of C. F. Pautzke as Commissioner of the U. S. Fish and Wildlife Service. pp. A2677-8
22. PEACE CORPS. Sen. Williams extended his remarks and inserted a newspaper article "South Orange Eighth Graders Form a Junior Peace Corps" and portions of a television transcript of comments of the Director of the Peace Corps concerning a "peace corps on the homefront." pp. A2681-2
23. NATURAL RESOURCES. Sen. Yarborough inserted an article "The National Conference on State Parks: Its History and Its Future," which he described as an excellent report on the work of this group and its interest and work in coordination with the national conservation efforts. pp. A2682-3
24. ECONOMICS. Extension of remarks of Rep. Curtis, Mo., and insertion of a Honolulu editor and publisher's address "The Economic Outlook On The New Frontier" which is somewhat critical of Government spending to get money in circulation and states that we are in urgent need of tax reform. pp. A2683-6
25. FEED GRAINS. Extension of remarks of Rep. Smith, Iowa, and insertion of an Iowa newspaper article which says that the new feed grains program is getting a lot of support from farmers. pp. A2708-10
26. FARM LABOR. Extension of remarks of Rep. Coad calling for support of his bill, H. R. 6032, which would amend the program under which Mexican braceros are

Unless we can gear our own tourist industry, an industry which in a way includes almost all of us, to an accommodation of the special requirements of new foreign guests, it might be better not to extend the invitation.

This means more and better packaged tours, solicitation and accommodation of specialized groups of travelers, an end to the notorious rudeness of baggage handlers and other service personnel at ports of entry, sightseeing trips built around the needs and interests of foreign guests, civic and private hospitality clubs to meet and socialize with overseas travelers, more language proficiency on the part of sightseeing, hotel and other key industry employees, and many, many other things. Above all, it means a general recognition of the importance of assuring that each traveler from abroad returns to his home with a higher opinion of America, her ideals, her institutions and her people.

The less than \$5 million travel program which the President and we in the Senate have recommended may never completely close the travel gap. But it still adds up to a mighty inexpensive welcome mat for a nation which prides itself on being a good neighbor.

HISTORIC RECORDS

Mr. BARTLETT. Mr. President, on April 18 I introduced a bill to provide for the indexing and microfilming of certain records of the Russian Orthodox Greek Catholic Church in Alaska now being stored in the Library of Congress. The Library of Congress has literally hundreds of boxes of these valuable historical records which were collected and recorded by the Russian Orthodox Greek Catholic Church in Alaska many years ago. These records include certifications of births, baptisms, marriages, and deaths of early Alaska parishioners of the church. The great bulk of these records cover a period of time from 1816 to 1933 but some documents indicate entries as early as 1772. Today these records are stored in the Library of Congress and are not indexed. To many native Alaskans these records represent the only record of birth and hence when these Alaskans need official certification of birth for social security and other purposes they must resort to the Library of Congress. Since this material is not indexed the search for an individual record is extremely tedious and time consuming.

I sincerely urge the passage of this legislation not only in behalf of my fellow Alaskans who at some future date may need the information contained in these records but also to preserve the records for their historical value. The present condition of some of these documents is not good. Age, mildew, and other forms of deterioration are having their effect. It is my hope that the records can be microfilmed before further deterioration renders a portion of them illegible and useless.

In considering this legislation we should not fail to recognize also the academic value of these records to anthropologists and other students. The records contain more than just statements of birth, marriage, and death; they reflect a long period of early Alaska when she was under the control of Russia and later before Alaska had any organized

government. If these records are not preserved we shall lose their valuable source of information—the only source available—and hence our scholars will be deprived forever of precise knowledge of a colorful era in the development of Alaska.

S. 1644 authorizes an appropriation of \$15,000 to carry out this worthwhile task. Once these vital statistics have been indexed and microfilmed copies of individual records would be sold with the provision that any person or organization, other than a State or political subdivision, could obtain copies only at the discretion of the Librarian of Congress. The discretionary clause is written into the bill to prevent, insofar as possible, fraudulent use of the statistics. I hope that my colleagues in the Senate will appreciate the historical and practical significance of this legislation and assist in obtaining its timely passage.

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDENT pro tempore. Is there objection? Without objection, the Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Montana will state it.

Mr. MANSFIELD. As the Senate knows, a number of Senators wish to speak on the minimum wage bill before the final vote on that measure is taken. Do I correctly understand that the time limitation under the unanimous-consent agreement applies to those speeches, as well as to the previous debate?

The PRESIDENT pro tempore. Yes.

The majority leader and the minority leader have control of the time, under the agreement. Thirty-four minutes remain under the control of the majority leader; 58 minutes remain under the control of the minority leader.

Mr. MANSFIELD. And that time limitation applies up to the moment of our final action on the bill, does it?

The PRESIDENT pro tempore. That is correct.

Mr. GOLDWATER obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator from Arizona yield?

Mr. GOLDWATER. I am happy to yield.

Mr. MANSFIELD. I ask unanimous consent that at this time I may suggest the absence of a quorum, without having

the time required for it charged to the time available to either side under the agreement.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Then, Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. METCALF in the chair). Without objection, it is so ordered.

COLLEGE PRESIDENTS SUPPORT COLD WAR GI BILL

Mr. YARBOROUGH. Mr. President, will the Senator yield?

Mr. GOLDWATER. I am happy to yield to the Senator from Texas.

The PRESIDING OFFICER. The Chair points out that the unfinished business, H.R. 3935, is before the Senate, and that the time is in control of the majority and minority leaders.

Mr. GOLDWATER. Mr. President, I yield myself 15 minutes, and I yield to the Senator from Texas.

Mr. YARBOROUGH. Mr. President, I should like to call attention to the broad support American educators are giving S. 349, the cold war GI bill, that was introduced by 37 Members of the Senate in January.

The Senate Subcommittee on Veterans' Affairs, of which I am chairman, has received letters from educators from every section of the country favoring passage of the cold war bill that would provide education and job training assistance to some 4 million veterans, who have served honorably in the Armed Forces since the end of the Korean conflict.

Herbert E. Longenecker, president of Tulane University in New Orleans, La., writes:

Because I feel that military service to the Nation during the cold war deserves similar recognition, I am happy to endorse this proposed legislation. It is my hope that the sponsors of this measure will secure its passage during the current session of Congress.

Brother Raymond Fleck, president of St. Edward's University at Austin, Tex., writes:

This will inform you that I am in favor of Senate bill S. 349, the cold war veterans bill. I hope that your committee and the Senate will act favorably on this bill and that it will be enacted into legislation.

Hollis L. Caswell, president of Teachers College, Columbia University, New York, supports the bill in this manner:

It seems to me that the proposal which is carried in the cold war bill, S. 349, is a fair and excellent one. It seems to me that in view of the fact that the percentage of young men who rendered this service is less than half of all young men of military age, it seems to me that provision for them of educational opportunities such as those envisioned in the bill would be highly desirable.

Charles J. Armstrong, president of the University of Nevada, writes:

Certainly we in the University of Nevada are heartily in support of the proposals of the cold war GI bill, particularly the provisions for educational assistance and vocational rehabilitation. I sincerely hope that the bill may be enacted into law.

President Armstrong also noted the uniformly satisfactory experience of his university with veterans and stated:

Certainly in general they have achieved better academic records because of their maturity and seriousness of purpose. We hope to be able to continue to enroll such students in the future.

Charles S. Casassa, president of Loyola University of Los Angeles, Calif., expressed this thought:

I personally am in sympathy with the proposed cold war GI bill. While I think that this generation of young men must look upon military service as part of their life as citizens of the United States, and not an intrusion upon that life, still I think that the various forms of assistance proposed in the bill will be a real help to cold war veterans in reaching a more developed educational and economic position without too much loss of time.

R. Franklin Thompson, president of the University of Puget Sound at Tacoma, Wash., writes:

We have examined the bill and feel that it will do a good job. Everyone in our Nation would gain from the results of it. We would heartily endorse the bill.

Rev. George P. Benaglia, president of King's College at Wilkes-Barre, Pa., writes:

I agree wholeheartedly that the cold war GI bill is a vital necessity and greatly meritorious.

Niles G. Sahlin, president of Quinnipiac College at Hamden, Conn., writes:

As a college president with considerable experience with the so-called GI bills from 1945 on, I am enthusiastically in favor of S. 349, the cold war GI bill.

The letters I have read will help show the determined support we are receiving from American educators on the cold war GI bill.

Since time will not permit me to read more of the many favorable letters we have received, I ask unanimous consent to have printed in the RECORD five other replies from educators.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UNIVERSITY OF HOUSTON,
Houston, Tex., April 7, 1961.

Senator RALPH YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: Thank you for your recent letter concerning S. 349, which I understand is basically an extension of the Korean GI bill. Because of the growing number of qualified young veterans who need and deserve assistance if they are to develop their full potential by university and college training, I am in favor of S. 349.

With kind regards,

Sincerely,

A. D. BRUCE,
Lieutenant General, U.S. Army (Retired), Chancellor.

ST. MARY'S COLLEGE,

Winona, Minn., March 28, 1961.

Hon. Senator RALPH YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: It was a pleasure to read the fact sheet on S. 349, the cold war veterans bill, introduced by 37 Senators on January 11, 1961.

I sincerely wish to lend whatever support St. Mary's College can give to this type of legislation.

Best wishes.

Sincerely in Christ,

BROTHER I. BASIL, F.S.C.,
President.

BETHEL COLLEGE,

Mishawaka, Ind., March 28, 1961.

Senator RALPH YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I am in receipt of your recent letter and descriptions of S. 349, the cold war GI bill. As we have examined this here, we feel that it would be desirable to have this bill enacted into law in order that we might continue to offer our GI's the very best possible training at this time.

We wish you the very best in your important work and assure you that we realize that you face many problems daily and trust that you may have divine guidance in finding the solutions.

Sincerely,

RAY P. PANNABECKER,
President.

PENNSYLVANIA STATE COLLEGE
OF OPTOMETRY,

Philadelphia, Pa., March 28, 1961.

Hon. RALPH YARBOROUGH,
Senate Post Office, Capitol,
Washington, D.C.

DEAR SENATOR YARBOROUGH: Thank you for your communication of March 22, 1961.

The fact sheet accompanying your letter represents fairly the reasons that a cold war GI bill is sound legislation. Education of our young people is a good taxpayers' investment. In addition to the larger income tax payments which may be anticipated on the basis of greater education, this legislation should have a beneficial effect on future unemployment expenses. We seem to have a relative oversupply of untrained workers which the cold war GI bill would tend to reduce.

Sincerely yours,

LAWRENCE FITCH.

ELECTRONIC TECHNICAL INSTITUTE,
Inglewood, Calif., March 30, 1961.

Senator RALPH YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I am very pleased to know that you and other Senators are doing your best to pass Senate bill No. 349, Veterans Readjustment Assistance Act of 1961.

My opinion as well as the opinion of nearly everyone I have contacted is that this country's strength lies in its education. It is also our opinion that this bill will benefit all America by educating the men who spent their time in the service.

The men who are drafted or who volunteer for military service are the very ones who, upon discharge, can and will strive to keep the world free.

Best wishes to you and your colleagues.

Yours truly,

HOWARD S. ASHE,
President.

MINIMUM WAGE BILL

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield to the Senator from Massachusetts.

Mr. SALTONSTALL. Mr. President, I intend to vote for the minimum wage bill before the Senate.

For some time I have been in favor of raising the Federal minimum wage to \$1.25 an hour. I have been very much concerned with the problem of extended coverage. The essential problem of the domestic economy today calls for us to take what sound action we can to increase employment opportunity and security on a long-term basis. We must be careful not to frustrate this basic purpose by the nature of various legislative proposals dealing with economic problems. There is strong evidence to indicate that if the minimum wage law was extended into certain new areas now exempt from the law, substantial unemployment in those areas might follow. With this point in mind, I have voted for various amendments offered to the present bill.

I am strongly convinced, for instance, that the traditional criteria for defining interstate commerce should be preserved. I voted for the Monroney amendment and the House bill offered as a substitute to carry this out because these proposals emphasized a clear formula of activity between States, rather than a dollar measurement.

While I have definite qualifications about the bill before us, I believe we need action in this area and therefore I am voting in favor of this legislation in order to send a bill to conference.

FARM HOUSING PROGRAM

Mr. HARTKE. Mr. President, farm housing loans made under title V of the Housing Act of 1949 are used to finance the construction, alteration, repair or modernization of farm homes and service buildings. Since the program started in 1949, 44,000 families have received loans totaling \$300 million.

There is an extensive and continuing need for this type of credit service to farm owners who are not in a position to improve their homes and farm buildings with their own resources or with a loan from a private or cooperative credit source. The farm housing program gives such families an opportunity to acquire an adequate home and necessary farm buildings by making available loans at favorable rates and terms. Farm housing loans bear 4 percent interest and may be repaid within periods up to 33 years.

The rate at which funds are being obligated and applications being received indicates the rate of obligation will increase substantially during the coming spring months. As of February 28, 1961, 4,189 loans, totalling \$31,657,671, had been obligated. New obligations currently exceed \$1 million a week and are soon expected to reach several million dollars a week. Applications on hand

Serious abuses appeared in connection with distribution of the more than 100,000 tons of surplus food from the United States.

Middlemen sold some of the food to the starving at exorbitant prices. At Abancay, a wealthy landowner succeeded in keeping the relief food out of his valley so that he could continue selling his own wheat at three times his normal price. Mills at Cuzco and Arequipa charged the drought relief program's 16 to 19 a quintal (\$100) for grinding grain when their normal fee was only 4 soles. (A sol is valued at 3¼ cents.)

DIRT IN FLOUR

Analysis of some of the flour showed it contained large amounts of dirt, added to increase the weight. Several lots of flour had to be discarded.

In Peru, exorbitant prices paid by a public agency for any goods or services are considered a sure sign that a kickback was received by officials in charge.

Members of the Peruvian Drought Relief Commission, among the highest paid civil servants in the country, receive salaries of only \$240 a month. The chief tax collector in Lima gets only \$120 a month in salary.

When wheat, corn, barley, and powdered milk began arriving by the shipload at Peru's southern seaports, storage and transportation facilities were swamped.

The municipal theater at one of the ports had to be used for emergency storage. New warehouses were built. Much of the food was ruined by rain and sun.

THIRTY-EIGHT THOUSAND TONS IN WEEK

Shipments reaching Peru in 1 week totaled 38,000 tons. The railroad could carry only 500 tons a day to the famine area around Cuzco and Puno.

Fifty trucks were dispatched with additional grain, but the road was so bad up to the 13,000-foot elevation of the drought area that the trucks could carry only 2 tons each instead of their normal 4 tons. Many broke down, and only 28 ever reached Puno.

Food shortages were worst in remote areas served only by foot trails. Horses, normally used to carry freight to these areas, had either died or were too weak to carry more than a few pounds. A man who normally carried 100 pounds on his back could carry only 25 pounds.

The Indians were unused to powdered milk. Communists spread the story that the strange substance was a Yankee drug that would prevent conception.

UPHEAVAL PREVENTED

John R. Neale, who headed the foreign aid mission in Peru until July 1958, says he agreed with Peruvian authorities that the emergency program could not prevent starvation entirely. "We decided to do what we could to feed the starving," Neale told the Post-Dispatch, "but we agreed that our chief objective had to be to prevent major social upheaval. In that we were successful."

Neale said he considered the program as successful as any other drought relief program in recent years. He estimated spoilage at 3 to 4 percent.

Criticism by the subcommittee headed by PORTER HARDY, JR., Democrat of Virginia, centered mainly on alleged misuse of money received from sale of the food.

Peruvian authorities insisted on selling the food to the needy, contending this would avoid pauperizing them and might prevent possible food riots. A plan was devised to set up public works projects to pay the hungry enough to permit them to buy the food. Proceeds of the sales financed the projects.

DEPARTMENT PROJECT

Among the projects was construction of an eight-unit block of apartments in Puno. The houses eventually were sold at public auction under supervision of a local com-

mittee. This apparently was the basis for the Hardy committee's assertion that part of the money was used to build eight houses for local "personages."

The subcommittee asserted also that 60 percent of the money received from sales of food went for purposes other than helping the drought victims. This is substantiated by an official report prepared by a United States-Peruvian cooperative under the foreign aid program. The biggest item not direct relief is more than \$1 million for transportation, half of that amount being for ocean freight due on the food.

Neale said ICA originally offered to pay freight charges, but Henry Holland, then Assistant Secretary of State for Inter-American Affairs, refused to approve the relief program unless Peru paid the freight. But the Peruvian Government was virtually bankrupt and could not afford the freight charges.

To escape this dilemma, Neale said, Peru decided to use part of the proceeds of the food sales to pay the freight bills. Neale said he agreed with the Peruvian contention that the money belonged to Peru and could be spent as Peru saw fit.

Reports of mismanagement caused controversy from the start. ICA sent a team of auditors to Peru about 2 years ago to review the entire operation. The auditors prepared a report and the ICA mission in Peru then prepared lengthy comments on the report. Those two documents are two of the main items the Hardy committee seeks to obtain from the Kennedy administration.

U.S. EXPORTS

Mr. LONG of Missouri. Mr. President, in an economy which has shown such a small percentage of growth over the past several years, Americans are justifiably proud of the 20-percent increase in total exports shown in 1960. With an export business that totaled \$19.4 billion the United States was able to hold the balance of payments deficit to \$3.8 billion.

Our cause for optimism is dampened somewhat when we stop to consider only about 12,000 of the nearly 300,000 manufacturers in the United States are engaged in export trade. Further discouraging reports indicate inertia persists among certain U.S. business enabling European and Japanese competitors to move quickly and take advantage of every opportunity.

The Kansas City Times published an editorial on March 25, 1961, calling attention to the need for a worldwide wave of salesmanship. Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A WORLDWIDE WAVE OF SALESMANSHIP

("While we are still the largest exporter in the world, our share of the world's exports has been declining in recent years. Only about 12,000 of the nearly 300,000 manufacturers in the United States are engaged in the export trade."—Luther H. Hodges, Secretary of Commerce.)

In recession, industries have a tendency to overemphasize the import picture as an explanation of their difficulties. Obviously, the Secretary of Commerce, in a recent Washington speech, was not playing down the problems of those who believe they have suffered from foreign competition. He was

simply saying that the United States can do even better than it has been doing in the overseas market places.

Last year, U.S. exports rose dramatically. The total was \$19.4 billion, an increase of 20 percent over 1959. This rise helped hold the balance-of-payments deficit to \$3.8 billion. But several of the Nation's foreign competitors increased their exports even more. Italy's shipments rose 27 percent. French exports were up 22 percent.

Moreover, the Wall Street Journal reports, the competition is likely to get stiffer. Some countries have learned quickly what U.S. business has been slow to accept. Salesmanship has been intensified (a British company purchased a plane to fly prospective foreign customers to its salesroom). Products are being tailored to foreign tastes. (A British producer has scored with a special American model of its motorcycle. A Norwegian appliance maker now builds larger ovens in its new ranges—to handle the turkeys and roasts of British and American housewives.)

In short, the United States no longer has a seller's market abroad. We hear encouraging reports on the new determination of U.S. industry. Certainly the export level of last year is a hopeful sign. But there are also reports, particularly from Latin America, that the inertia of U.S. business persists. European and Japanese competitors have moved quickly to take advantage of every opportunity.

The Secretary of Commerce deserves credit for his effort to instill a little more enthusiasm for the export business. His department, by bringing potential customers and salesmen together, can be helpful. But the responsibility lies with industry itself. It must overcome the burden placed upon it by the continuing gap between U.S. and foreign labor costs. To do so, it will have to sell—and sell hard.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mr. LAUSCHE. Mr. President, will the Senator from Arizona yield?

Mr. GOLDWATER. I am happy to yield to the Senator from Ohio.

Mr. LAUSCHE. I shall vote for the minimum wage bill later this afternoon.

I believe the historic definition of interstate commerce should have been maintained, in accord with the Monroney amendment and the House bill as sent to the Senate. I voted for the Monroney amendment and for the Dirksen amendment in the nature of a substitute, but I was on the losing side.

My view is that there is a need for an increase in the minimum wage, and that is contained in the bill which will come before us for a vote this afternoon. I also believe we were justified in extending the coverage. If there are constitutional infirmities in the bill, I assume that fact will be revealed and affirmed by the courts if the matter is ever taken to the courts.

On the basis of what I have said, I shall vote for the bill when it is submitted for a vote this afternoon.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Am I correct in assuming I have 15 minutes?

The PRESIDING OFFICER. The Senator has yielded himself 15 minutes from the time on the bill.

Mr. GOLDWATER. And the opponents still have 58 minutes remaining?

The PRESIDING OFFICER. There are 58 minutes remaining altogether in opposition, and the Senator from Arizona has yielded himself 15 minutes.

Mr. GOLDWATER. Mr. President, we are close to the hour when we shall vote on H.R. 3935, the bill to extend coverage and to increase the minimum wage.

Mr. President, I think everything which could be said has been said about the bill in the last 5 days. The amendments have been thoroughly discussed. The temper of the Senate has been shown by the fact that virtually all amendments have been defeated, and defeated by a rather consistent margin.

At the outset of my concluding remarks, I wish to thank the Senator from Michigan [Mr. McNAMARA] for the very gentlemanly and scholarly way in which he has conducted himself in getting the bill through the Senate. It has been a pleasure to work with the Senator on the floor, as it has been a pleasure to work with him in the committee. I look forward to the same amicable relationship with him through the years as we discuss these problems.

Mr. President, I think I would be derelict to my conscience and to my duty to the American people if I did not spend a few moments in this final hour to outline briefly my opposition to the pending measure—and frankly, Mr. President, to measures similar to it.

First, what are we doing? We like to kid ourselves and to say we are helping the lowest paid people in this country. I hope to be able to prove we shall not do so.

We say that we are extending coverage to industries which should be covered. I shall try to show we are not doing this.

We tell ourselves that this action will increase employment, that it will mean a great deal to the present condition of the economy. I hope to be able to prove this is not true.

Mr. President, we have heard these same arguments used ever since the Fair Labor Standards Act was enacted in 1938. Every time the law has come before us for amendment, we have heard the same argument about doing good for the lower paid workers.

Mr. President, it is not an easy thing to stand on the floor of the Senate and to argue as I am doing, because I know there are those in the press and those in labor who will brand me as one opposed to the granting of any wage increase.

Mr. President, I probably believe more firmly in paying a man what he is worth than any other man in this body, but I also believe a man should not be paid what he is not worth.

We will find, as we upset the natural laws involved in the operation of the economy, as we are doing by our action today, that we shall not help the economic situation.

We shall not help employment or the employed people when artificially by Government fiat we raise wages at any level. By our action today, we shall raise wages at all levels.

Mr. President, it is interesting to note that the Consumer Price Index, which is actually the cost of living index, has since 1938, when the act was first passed, gone up 111.27 percent. At the same time, the minimum wage has been increased 300 percent, almost three times as much in the same period.

Mr. President, this poses a very in-

teresting question. If the minimum wage has risen 300 percent at the same time the cost of living has risen a little over 100 percent, is the pending proposal the correct approach? The figure could well be 500 percent, and I assure Senators there would be a clamor in the Senate and in the House of Representatives to increase the minimum wage, but there is no indication that such action will take care of the so-called underpaid workers, when we artificially raise wages. By raising the wage 300 percent during the time when the cost of living has gone up only one-third as much, we obviously have not provided the answer to the worker's dilemma.

Mr. President, I ask unanimous consent that the Consumer Price Index statistics which I have printed in the RECORD at this point in my remarks.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

The CPI (Consumer Price Index) is the cost-of-living index of the Department of Labor's Bureau of Labor Statistics

Date	Consumer price index (CPI)	Percentage	Actual minimum wage		If minimum wage were based on CPI
			Amount	Percent	
1938 (average).....	60.3	100	\$0.25	100	Cents 25
1955 (average).....	114.5	189.88	.75	300	47½
1956 (January).....	114.6	190	1.00	400	47½
1956 (average).....	116.2				
1960 (November).....	127.4	211.27	1.00	400	53½

Thus while the CPI has risen by 111.27 percent since the enactment of the FLSA in 1938, the minimum wage has risen 300 percent, almost 3 times as much in the same period.

Even if we start with the \$1 present minimum as a base, disregarding the extremely disproportional rise in the minimum wage which this represents, and agree on a new minimum based on the rise in the cost of living since January 1956 when the \$1 minimum became effective, we get a percentage rise of less than 10 percent—9.63 percent to be exact, which applied to the dollar minimum would justify no increase in excess of 10 cents.

If the 1938 base is used as a starting point, then the equivalent minimum wage should be not more than 54 cents which is less than half the figure of \$1.25 sought by the administration.

Even if it is conceded for the sake of argument that the 25-cent figure set by the statute in 1938 was too low, the essential thrust of the argument is changed only in degree, not in principle.

Thus, the original statute provided that the minimum rate go to 40 cents an hour by 1945. This would certainly indicate that if the rate had been set at 40 cents in 1938, it certainly would not have been out of line with the existing economic situation in terms of being too low.

Therefore, let us take 40 cents as the base figure which should have been used in 1938 instead of 25 cents and compare that with the existing and proposed minimums in the light of the increases in the cost of living since 1938.

From 1938 to January 1955, the Consumer Price Index rose 90 percent (from 60.3 points to 114.6 points). On this basis, the minimum wage should have gone to 76 cents. Instead it went from 75 cents (enacted in 1949) to \$1, a much greater increase than that in the cost of living. In November of 1960, the CPI stood at 127.4 points, an in-

crease of 111.27 percent over the 1938 index. On this basis, the minimum wage at this time should be no more than 85 cents. These figures are all based on the assumption that 40 cents would have been the proper figure to start from in 1938, instead of 25 cents.

Even if we take the figure of 75 cents (which was the minimum wage until 1956) as a starting point, and add to it the rise in the cost of living since that date, the highest minimum wage which would be presently justified is 93 cents.

Mr. GOLDWATER. Mr. President, it has been estimated that this bill would cost a total of some \$1.7 billion in added wages. This, though, is the estimate of the direct wage costs, only—those increases necessary to bring the lowest paid workers up to \$1.25 an hour in the covered industries—old and new.

Actually, this direct cost, alone, does not really help us measure the cost impact of the bill, because it does not consider the indirect costs—those necessary, for example, to restore wage differentials. These are the costs that would really pack a wallop. They would be far greater than the direct costs.

Unfortunately, though, no one can estimate accurately what these costs would amount to, simply because no one knows for certain how every individual employer would adjust to the new minimum requirement.

To show Senators—Mr. President, I will admit this is in the most extreme way—how the bill's total costs might skyrocket, consider the bill strictly from the standpoint that it represents a 25 percent increase in the minimum wage floor. And then make these assump-

tions: If this 25 percent wage increase is spread throughout the labor force—Department of Labor statistics show that wages in uncovered industries rise at about the same percentage as in covered industries; and if all wage differentials, within and among industries, are immediately restored—some would be restored immediately; others might not be restored for a year or two; and if no employees are laid off—Department of Labor statistics show there were layoffs following the \$1 minimum; if these three developments were to occur, S. 895 could increase labor costs by some \$40 billion.

To arrive at this figure, we have taken Government figures reflecting wages and salaries for the year 1958—and we have excluded wages of, first, corporate executives, managers, and officers; second, proprietors; third, farm employees; and fourth, Government workers. This leaves total wages and salaries, for that year, of \$171,668 million. Under the conditions cited above, 25 percent of this total amounts to \$42,917 million.

Obviously, the economy could not begin to stand such a cost impact. There would be no offsetting productivity improvement—a comparable productivity increase would be impossible—hence, it would merely mean injecting \$40 billion of new costs in the business mechanism.

Under the three conditions mentioned earlier, employers would have no alternative but to pass along the \$40 billion to consumers in the form of price increases. But this would be impossible. Consumers have already begun to show resistance to high prices. They would not tolerate this kind of inflation.

So, to avoid a \$40 billion wage-price boost, employers would be forced to resort to layoffs. This way, they could hold down unit costs—hold down total wage costs—by sacrificing some employees to meet the higher paychecks of those who remain on the job.

Labor Department studies of the effects of the \$1 minimum show employment declines in the period of adjustment to the higher minimum. We could not expect otherwise if a \$1.25 rate is legislated. To the contrary, we could expect even harsher unemployment effects because of the broader coverage aspects of S. 895, which were not involved in 1956 when the \$1 rate became effective.

Thus, it is quite clear that the proposed legislation would not raise labor costs by \$43 billion, but only because of other severe effects, mainly unemployment.

And, whatever extra labor costs remain—however many millions—they would undoubtedly show up in high consumer prices.

It may be said by some that the legislation would not represent a 25-percent wage increase across the board, because differentials would not be restored, but that there would be more equalization of wages among employees. The merit of this sort of development is highly questionable. Certainly, it would lessen individual incentive for advancement. The closer wage levels become, the less stimulus there is for an individual to

strive for personal progress. It would appear that we, of all people, should recognize the benefits of incentives and, thus, the value of wage differentials.

Wage differential is a subject we blithely ignore. When the lowest salary is adjusted artificially upward, the man who is already occupying that slot by virtue of his being a more valuable employee—a fact which he and management both know—will ask for a higher wage, and he will receive it. When that man moves up into the next bracket, the man who is still up there, who is worth more to himself and to his employer, will ask for a higher wage, and he will receive it. This process is the maintenance of the historic wage differential that has been created in our economy. If we ever destroy this wage differential, if we ever reduce wages to a common denominator or to a common level, we shall no longer have a free enterprise system, and we shall long have passed what we today call socialism or a kind of economics that man has tried in the past—thankfully only occasionally—and found it never to work.

I am not speaking of something that might happen. I have in my hands a collective-bargaining agreement between the St. Louis Joint Board, International Ladies Garment Union of the AFL-CIO, and the Associated Garments Industries of St. Louis. I know that many other bargaining agreements contain the same clause. I read article 11 of that agreement:

Change in legal minimums: Should Federal or State legislation be enacted increasing minimum wages under the law, it is agreed that the minimum wage scales specified in the schedules attached hereto shall be adjusted to the end that no minimum wage specified therein shall be less than 15 percent above the new legal minimum wage. In the event of any disagreement, the matter shall be treated as a dispute.

The agreement to which I have referred is merely one agreement in one city between one group of unions and one type and group of employers. This provision, as I have said, is contained in many collective bargaining agreements, and I believe it is right. I think the unions would be derelict in their duties if they did not recognize that wage levels must be maintained. This action is an immediate legal action that will take place in the industry and other industries the moment the bill is signed into law.

During the course of the debate we have talked a great deal about the probable effect of the passage of the bill on employment. I shall have to admit that there is no way in which we can tell by what number unemployment might be increased through the enactment of the bill. Back in 1956, when the minimum wage was raised to a dollar, we made the same argument that unemployment would result, and we were told that it would not result. But it did. I read from the report of Secretary Mitchell made January 31, 1959:

The wage increases resulting from the \$1 minimum were not only these direct or required increases, but also increases to workers already receiving more than the minimum.

He went on to say:

The surveys also disclosed that the \$1 minimum stimulated employers to reduce costs through productivity improvement as well as raising of production quotas, especially in piece-rate industries, dismissal of least efficient workers, * * *

I ask unanimous consent that the report in the form of a letter from the Secretary of Labor be printed at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., January 31, 1959.
The Honorable RICHARD M. NIXON,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: In accordance with the requirements of section 4(d) of the Fair Labor Standards Act, there is transmitted herewith a report prepared by the Administrator of the Wage and Hour Division, which sets forth information concerning the operation and effect of the act and statistical data provided by the Bureau of Labor Statistics.

The Wage and Hour Division has undertaken a major study of the \$1 minimum wage, based on a survey program conducted at the time the \$1 minimum became effective in March 1956 and again 1 year later. Attached to this report are summaries of the survey findings in individual industries and localities now made available in this form for the first time. Preliminary summaries of the wage surveys in manufacturing and wholesale trade as of mid-1958, conducted by the Bureau of Labor Statistics, are also attached to this report.

Section 4(d) directs the Secretary to inform the Congress of his evaluation of minimum wages under the act and of his views as to necessary changes in the act to further the purposes of the legislation.

The Congress enacted the Fair Labor Standards Act because it found "that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce." Accordingly, the Congress decided, through the exercise of its power, to regulate commerce among the several States and with foreign nations, "to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power."

The Department's survey program disclosed substantial effects on wage payments in the low-wage manufacturing industries in 1956-57, resulting from the increase of the minimum wage to \$1 an hour, effective March 1, 1956. In 9 of the 18 industry segments studied the wage increases required to bring all workers below \$1 up to that figure increased the wage bill by more than 10 percent. In these studies the industry segments were divided, wherever the data were adequate, into low-impact and high-impact groups, according to the magnitude of the direct wage bill increase required by the new minimum. In 6 of the 14 industries

in which there are such data the required increase exceeded 20 percent in the high-impact groups.

The wage increases resulting from the \$1 minimum were not only these direct or required increases, but also increases to workers already receiving more than the minimum. The surveys indicate that these indirect increases on the effective date amounted in the median situation to approximately 40 percent of the directly required increases in the low-wage industries.

One notable survey finding is that existing wage differentials of all kinds—between high- and low-wage plants, between large and small plants, between union and non-union plants, between large and small communities, between high- and low-wage occupations, etc.—were substantially narrowed as an immediate consequence of the \$1 minimum. These differentials tended to be restored, although only partially, during the following year.

The surveys indicated that the \$1 minimum had effects in raising wages in exempt portions of covered industries and to some extent also in employments not covered by the act.

The surveys also disclosed that the \$1 minimum stimulated employers to reduce costs through productivity improvement as well as raising of production quotas, especially in piece-rate industries, dismissal of least efficient workers, and elimination of premium overtime. There were also indications of some shifting to different price lines, substitution of cheaper materials, and increased prices. The latter was not always possible, but sales and employment were maintained in many situations because higher prices offset rising wage costs under generally favorable demand conditions.

Nonetheless, the surveys present evidence of disemployment apparently related to the increase in the \$1 minimum, despite the fact that the economy was rising at that time and there were increases in the general level of prices which facilitated adjustment to the \$1 minimum. Employment tended to decline in the low-wage industries, and in most cases more markedly in those segments of the low-wage industries where wage rates had been increased most. According to a monthly data published by the Bureau of Labor Statistics, 16 out of 22 low-wage industries showed a noticeable drop in employment, while only 2 out of 13 high-wage industries showed a decline in the few months bringing the effective date of the \$1 minimum. These employment developments were, of course, influenced by many factors in the whole economic situation. They are much more marked, however, than would be expected in the exceptionally favorable economic circumstances of the time.

It is recognized that there was an 8 percent increase in the consumer price index since March 1956 and that productivity for the economy as a whole has increased by about 5 percent since that date. There has also been a considerable rise in the level of wages; straight-time hourly wages in manufacturing, for example, are now about 13 percent above their level when the \$1 minimum became effective.

The results of the studies undertaken by the Department suggest that the \$1 minimum had substantial impact in the low-wage industries and that there is still a heavy concentration of workers at or near the minimum in the low-wage industries. In view of these conclusions, it is not determinative that prices, the wage level generally, and productivity have increased in the meantime. A further increase in the minimum at this time would involve the risk of substantially curtailing employment or earning power in the low-wage industries, which the act states is to be avoided.

The minimum ought to be raised as rapidly as possible, but with due regard for the eco-

nomie capacity of low-wage industries to make adjustments to progressively higher standards. Because of the effect it would have on the economy, especially in the low-wage industries, I do not recommend an increase in the minimum wage at this time. It is quite significant that as late as May 1958 the wage surveys show 10.2 percent of employees in food and kindred products in the United States earned between \$1 and \$1.05 (30.2 percent in the South); in apparel, the respective United States and South percentages were 16.3 and 37.1; in lumber and wood products, 25 and 54.2; in furniture, 6.4 and 16.6. In subdivisions of these and other industries, the proportions were substantially greater.

This suggests that adjustment to the \$1 minimum is not yet complete. The minimum should be increased when it appears evident that it can be done without requiring generally rising prices to help effect the higher wages.

The most important step the Congress can take at this time is to extend the coverage of the act. Studies of wages in industries not now subject to the minimum wage requirements of the act and of economic conditions in these industries, including the extent to which they can meet the act's standards, lead to the conclusion that several million additional workers could feasibly be brought under the act's protection at this time. To effectuate the purposes of the act, it is important for minimum standards to be established in significant portions of industries not now covered, so as to make the minimum more effective. An increase in the minimum above \$1 at this time would also make more difficult the extension of coverage.

While no materials are submitted concerning the effect of the agricultural exemptions or the application of wage standards to agricultural workers now exempt from the minimum wage provisions of the act, a study of this is now being undertaken in the Labor Department.

To increase efficiency in the administration of the Fair Labor Standards Act, I recommend that the act be amended to assure that back wages found due under the act are paid to the employees entitled to such wages. This is an area that concerns me greatly in view of the fact that nearly half of the back wages found due and recoverable within the 2-year statute of limitations are not paid by employers. This failure to pay back wages found due is unfair to the employees concerned and gives a competitive advantage to an employer who has violated the law.

Respectfully submitted.

Sincerely yours.

JAMES P. MITCHELL,
Secretary of Labor.

Mr. GOLDWATER. We never did get an exact figure of the impact of the change in the law in 1956, but I remind Senators that we were in a period of increasing economy at the time, and the full impact probably was never felt. However, it was estimated that approximately 100,000 people lost their jobs as a result of the passage of the 1956 act.

My own personal estimate—and I offer it only for what it is worth, and I recognize that it is not worth much—is that unemployment will increase between 300,000 and 500,000 as a result of the passage of the bill.

We hope that will not be so, but we must recognize one thing. We can consider only a percentage of 100 percent. If we could have 105 percent or 110 percent in doing business, we would not have a great problem. But what is a salary or income to an employee is a

cost to management, and the cost involved in labor is the highest cost of the manufacturer's dollar, or the retailer's dollar, or of any dollar in our economy.

In the retail industry, for example, historically the percentage of labor cost has been in the proximity of 60 percent. It may go down or up a bit, but never more than one or two points. As the cost is increased unnaturally, it must be absorbed. It cannot be absorbed today in the profit of retail institutions and other businesses of this country, because profits are going down.

In this morning's press we saw that one of the causes of the stock market decline yesterday was the fact that fourth-quarter profits dropped. This occurrence is not anything we like to see, but as we unbalance the relationship between costs by Government action, we see a decrease in profit, so that the man who is faced with increasing cost cannot take it out of profit and stay in business.

What does such a man do? He merely adds the additional expense to the cost of his goods, and that increase spells out rising prices.

I picked up an interesting article entitled "Minimum Wage Legislation Spells Free World Trouble," from the Commercial and Financial Chronicle, written by Mr. Paul Einzig. He reminds us of what happened to Great Britain when Great Britain pushed the welfare state ahead of all other considerations, including the considerations involved in the operations of the economy.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GOLDWATER. I yield myself 10 additional minutes.

The writer premises his misgivings "on the fear that our quest to keep raising the standard of living will cause us to sacrifice the financial support required to stave off the Communist entry into the underdeveloped world."

This is a very interesting article. I shall not read it all, but I ask unanimous consent that it may be printed in the RECORD at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Commercial and Financial Chronicle]

MINIMUM WAGE LEGISLATION SPELLS FREE WORLD TROUBLE

(By Paul Einzig)

(International repercussions of our minimum wage rate legislative efforts, as seen by an outsider, make the matter more than a purely domestic affair. Dr. Einzig premises his misgivings on the fear that our quest to keep raising the standard of living will cause us to sacrifice the financial support required to stave off the Communist entry into the underdeveloped world. He draws an analogy as to what happened to Great Britain as a dominant world power when it pushed the welfare state ahead of all other considerations.)

LONDON, England.—The initial setback in the attempt of the new administration to adopt legislation providing for a substantial increase of minimum wages is primarily an internal matter for the United States.

Nevertheless, it is liable to affect the economic outlook throughout the free world. The defeat of the bill in its original form by a narrow majority must be viewed with satisfaction by those in favor of resisting worldwide inflation. For the level of wages in the United States is a factor of first-rate importance in international trade. It is liable to influence international monetary stability and the prospects of giving effective assistance to underdeveloped countries. Above all, it has a bearing on the political balance of power between the free world and the Communist-dominated world.

GRAVE REPERCUSSIONS

Should the administration succeed in overcoming the resistance of Congress to the proposed major turn in the inflationary wage spiral, it would have grave repercussions within and outside the United States. So far the administration has done excellent work in stopping the gold drain by restoring confidence in the dollar. This newly reestablished confidence would weaken materially if the competitive capacity of the United States in the world markets were reduced as a result of a unilateral increase in wages, and as a result of the ensuing substantial increase in domestic consumption. There can be little doubt that the trade unions would be able to maintain existing wage differentials, so that the increase in minimum wages would be accompanied by an all-round increase in wages.

Nor would the resulting cost inflation and demand inflation remain confined to the United States. The handicap imposed on American exports would enable Britain and other industrial countries to grant, in due course, corresponding wage increases with impunity. Consequently the adverse effect on the American balance of payment would be largely temporary. It might last, however, long enough to cause substantial gold losses and to weaken the dollar's position. During the transition period while the export of American goods and services would remain handicapped, the United States would be exporting inflation to other countries of the free world.

This assumes, of course, that the all-round increase in wages would not be accompanied by a corresponding increase in the output. It is of course, conceivable that this assumption might prove to be incorrect. Even if we were to accept, however, the possibility of such expansion, the wage inflation would entail grave disadvantages to the free world. It would mean that domestic consumption in the United States and other industrial countries would absorb the increase of the output which ought to be made available for backward countries. Unless the fruits of expansion are earmarked for these countries, all the talk about assisting them becomes sheer mockery. If it is the serious intention of advanced countries to help underdeveloped countries, they must accept at any rate for some years, the inevitability of

a static or at any rate slowly increasing standard of living.

INTERNATIONAL MONETARY INSTABILITY

During the transitional period the weakening of the dollar's position that would result from the raising of the minimum wages in the United States would make for international monetary instability. This would be detrimental to the power and prestige of the United States and of the entire free world. On the financial front the United States would be forced on the defensive and they would not be in a position to assist effectively the weaker countries of the free world. Expenditure on national defense might have to be curtailed at the wrong moment.

Beyond doubt, President Kennedy's desire to improve the position of the lowest paid workers is inspired by an idealism similar to that which was responsible for the sudden development of the British welfare state after the war. But it might be advisable for Americans to ponder over the lessons of the British idealistic experience. Before the war Great Britain was a world power second to none, and its voice carried immense weight in international affairs. Today there are only two world powers—the United States of America and the U.S.S.R. The reason why Britain lost her position in the front rank can be found in the haste with which the welfare state was created under the Socialist government and further developed under the Conservative government. National greatness in the form of having a decisive voice in world affairs has been sacrificed for the sake of national greatness in the form of advanced social services. The two ends would not have been incompatible if the trade unions restrained their greed. And now in the United States of America their greed is sought to be encouraged by means of higher minimum wages.

Fortunately for the free world the United States has until now succeeded in maintaining a reasonable balance between guns and butter. Judging by the projected increase in defense expenditure, it is President Kennedy's intention to maintain that balance. Intention in itself is not enough, however. If as a result of a deliberate stimulus given to wage inflation the dollar's position should weaken, the administration may feel impelled to cut down on expenditures just at a time when the inability of the free world to grant effective economic assistance to underdeveloped countries would bring new recruits into the Communist bloc.

It must be of course, the ultimate aim of the U.S. Government, and of all other governments, to raise the standard of living a home. At the present moment, however, it is infinitely more important to abstain from weakening the position of the free world. Instead of seeking easy popularity by encouraging and even engineering an increase in the standard of living at the expense of weakening security against communism, it should be the duty of all

governments in the free world to make their public opinion realize the overwhelming importance of deferring or moderating their claims for a rapidly rising standard of living.

Mr. GOLDWATER. One of the results of the passage of the bill will be to increase the problems that already face us in our industries as we attempt to compete with the low wage nations of the world. I do not advocate or even suggest that we cut salaries or earned income even a bit in this country. We must produce more so that those employed can earn the salaries that are being paid today. I believe we can handle foreign competition. However, it will take the expenditure of billions and billions of dollars. I would suggest, parenthetically, that this will not be accomplished by the President's message on taxation, which I read just before I came to the floor. That is beside the point, however. We already have 300,000 people or more out of work in the textile industry in our country. This will put more people out of work, because it will encourage the flow of more foreign goods into the country.

The argument has been made that the enactment of the proposed legislation will help the economy. I hope I shall be able to destroy this idea at some time during my life—the idea that the Federal Government can save the economy of our country. The Federal Government will kill it. If the economy of our country ever dies, Uncle Sam can take the credit for it. It is not necessary to take my word for it. I go back to the 1930's, when we heard the argument made that the Federal Government, by spending would take us out of the depression. The depression started in 1929, and the Federal Government started to tamper with the economy in 1932. By 1940 we had not come out of the depression 100 percent. In 1939 we still had 9½ million people out of work, or 17.2 percent of the working force. In fact, we were the last nation in the world to come out of that depression. Why? Because we did not allow the free forces of the economy to operate.

So that Senators may have the benefit of the statistics from which I have spoken, I ask unanimous consent that the tables I have in my hand may be printed in the RECORD at this point in my remarks.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

	Total Federal expendi- tures	Federal purchase of goods and serv- ices (less Govern- ment sales)	Corporate profits		Gross private domestic invest- ment	Spending for pro- ducers' durable equip- ment	Gross national product	Dispos- able personal income	U.S. popula- tion (in- cluding Armed Forces overseas)	Dispos- able personal income per capita (8)/(9)	Con- sumer Price Index (1947-49= 100)	Real dis- posable personal income per capita ¹ (10)/(11)	U.S. em- ploy- ment	U.S. un- employ- ment	Unem- ployed as percent of civilian labor force
			Before taxes	After taxes											
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
	<i>Billions</i>	<i>Billions</i>	<i>Billions</i>	<i>Billions</i>	<i>Billions</i>	<i>Billions</i>	<i>Billions</i>	<i>Billions</i>	<i>Millions</i>				<i>Millions</i>	<i>Millions</i>	
1929.....	\$3.3	\$1.3	\$9.6	\$8.3	\$16.2	\$5.8	\$104.4	\$83.1	121.9	\$682	73.3	\$930	47.6	1.6	3.2
1930.....	3.4	1.4	3.3	2.5	10.3	4.5	91.1	74.4	123.2	604	71.4	846	45.5	4.3	8.7
1931.....	3.6	1.5	— .8	— 1.3	5.5	2.8	76.3	63.8	124.1	514	65.0	791	42.4	8.0	15.9
1932.....	4.7	1.5	— 3.0	— 4.7	.9	1.6	58.5	48.7	124.9	390	58.4	668	38.9	12.1	23.6
1933.....	4.6	2.0	.2	— .4	1.4	1.6	56.0	45.7	125.7	364	55.3	658	38.8	12.8	24.9
1934.....	6.7	3.0	1.7	1.0	2.9	2.3	65.0	52.0	126.5	411	57.2	719	40.9	11.3	21.7
1935.....	6.5	2.9	3.1	2.2	6.3	3.1	72.5	58.3	127.4	458	58.7	780	42.3	10.6	20.1
1936.....	8.5	4.8	5.7	4.3	8.4	4.2	82.7	66.2	128.2	516	59.3	870	44.4	9.0	16.9
1937.....	7.8	4.6	6.2	4.7	11.7	5.1	90.8	71.0	129.0	550	61.4	896	46.3	7.7	14.3
1938.....	6.9	5.3	3.3	2.3	6.7	3.6	85.2	65.7	130.0	505	60.3	837	44.2	10.4	19.0
1939.....	9.0	5.2	6.4	5.0	9.3	4.2	91.1	70.4	131.0	537	59.4	904	45.8	9.5	17.2
1940.....	9.2	6.2	9.3	6.5	13.2	5.5	100.6	76.1	132.1	576	59.9	962	47.5	8.1	14.6

¹ Disposable income per capita corrected for changes in the Consumer Price Index (expressed in dollars of 1947-49 purchasing power).

Sources: Col. (1), U.S. Treasury; cols. (2)-(15), Business Statistics, 1959 edition U.S. Department of Commerce.

Mr. GOLDWATER. Mr. President, we are doing a dangerous thing by passing the proposed legislation, which threat the proponents have tried to argue off. However, I do not believe we can argue off the fact that we are about to change the concept of interstate commerce by the enactment of the pending bill. Prior to the debate on the floor of the Senate and prior to its inevitable passage we had before us a very broad definition of interstate commerce. It went so far as to say "affecting commerce." We have the words in the present act, in section 6(a), which read:

Every employer shall pay to each of his employees who is engaged in commerce or in the production of goods for commerce wages at the following rates.

In the same act from which I am reading, we find this definition:

"Produce" means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this Act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods or in any closely related process or occupation directly essential to the production thereof, in any State.

This does not include selling at retail. However, let us look at the language in subsection (s) of section 2 in the bill. It reads, as a new definition:

"(s) 'Enterprise engaged in commerce or in the production of goods for commerce' means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

I do not know how it is possible to be broader than that. It means that the automobile dealer in my hometown will come under the regulation of the Federal Government. It means that the boot-black in my hometown can come under it. It means that any piece of merchandise, any goods, any article which has been moved from one State to another State, is still in interstate commerce. In fact, I believe the courts might well decide that it is still in interstate commerce even after a person purchases it, and probably such a person would be

faced with Federal regulations when he tried to sell his car as a secondhand car, because it has been moved in commerce.

Mr. President, this is a broadening of the commerce clause to the extent that the Federal Government, in my estimation, will now have the power it needs to regulate wages, prices, hours, working conditions, and places of employment in this Nation.

It has been my wont occasionally to believe—although I must say it is hard to believe—that that was the end target of those who proposed the legislation in 1938, even though at the time Franklin Roosevelt said there were businesses of a purely local nature that should not be interfered with by the Federal Government. Even the then Senator Black, who is now one of our Supreme Court justices, said practically the same thing. Yet today we find an attempt to destroy the concept of interstate commerce; in fact, enactment of the bill would be destroying the concept of intrastate commerce.

I cannot agree with Senators who say that we are not changing it. The language is plain. It does not take a lawyer to understand it, or a judge to interpret it.

Therefore, I rise to express my opposition to the bill, or to any attempt of the Federal Government to move into our economy in the way in which it is not entitled to move, or is required morally to do. I am sorely afraid that we are taking a dangerous step, and that next year or the year after, \$1.25 will have become a starvation wage level. If we keep this up, we will live to see the day when a \$5 hourly wage will be a starvation wage, because of the unnatural activity of the Federal Government in our economy. We must allow the economy to operate as freely as we can allow it to operate. We know that it cannot be completely free. Nevertheless, for 28 years the economy has been hamstrung by high taxes and governmental interference. Today we ask why the economy is going sideways instead of forward. It is going sideways because there is no longer an incentive to invest, because taxes are taking profits, and because we are granting a wage increase that has not been earned. We have to

pay more and more for the necessities of life.

Mr. President, we are not the first country which has tried to do this. I was reading only this morning—and this is a peculiar commentary—that countries seem to get into trouble when rulers work the hardest. According to this theory, Rome at first had no trouble; the people had a great deal of fun, although they did not get anywhere, and the rulers did not have any trouble. Then came Caesar. Caesar decided to regulate wages and prices and the economy. The result was that Rome fell. The reason that Rome fell was that the rulers started to tamper with the agricultural economy, and then extended the tampering to all of the economy.

Mr. President, my fear in this field is not confined to the field of the minimum wage. My fear extends to the whole activity of the Federal Government in our economy. There is no need for anything over and above what is needed for regulating businesses. All this has done damage to our economy in the last 28 years, all because of this governmental activity. We are not economically where we should be. If we continue with the idea that by Government regulation our economy can prosper, we are badly mistaken.

I have nothing more to say on the subject. I yield the floor.

Mrs. NEUBERGER. Mr. President, I yield 10 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I cannot support the proposal before the Senate to increase the minimum wage and to extend the coverage of the Fair Labor Standards Act.

There is no question that we should work toward a goal of a higher wage for those who receive less than \$1 an hour for their labors. I am as conscious as anyone else of the high cost of food, housing, clothing, utilities, and medical care; and I am fully aware that on wages of and below \$1 an hour it is difficult to do more than barely get along.

I am far from convinced, however, that an increase in the statutory minimum wage and the extension of it to broader segments of the economy will accomplish a net improvement of the

situation. We cannot assume that the only change which can possibly take place with regard to our lowest income groups is improvement. Employment at \$1, or even 75 cents, an hour is far better than to exist on unemployment compensation, welfare payments or assistance, or nothing at all. For many persons, this may well be the alternative if the proposal before this body is enacted.

We all recognize that there is difference of opinion as to the effects of an increased minimum wage in terms of unemployment. The proponents of the increase believe the results in terms of unemployment to be minimal. The "before" and "after" studies of the Department of Labor on previous increases in minimum wage are far from conclusive and, indeed, provide little basis for any conclusion in this regard. In view of the nature of the studies, it is not too surprising that they reveal so little. For example, the surveys concentrating on low-wage industries omitted from the sample all firms going out of business between survey dates, although such drop-outs probably accounted for a large part of the disemployment effects of the higher minimum wage. Further, it is impossible to generalize to almost any extent in terms of the disemployment effects of an increase in the statutory minimum, since the impact varies greatly from industry to industry and from locality to locality.

The impact on many industries and fields of endeavor can, however, be anticipated in concrete terms. For instance, lumbering is the second largest manufacturing industry in South Carolina. This lumbering takes the form both of production of forest products in the form of pulpwood, and the production and manufacture of forest products into lumber and plywoods. Each of these types of lumbering endeavor reflects differently the impact of a minimum wage, although each does reflect substantial disemployment with each increase in minimum wage; for they are all low-wage, highly competitive industries.

The production and manufacture of lumber derives its competitiveness from the fact that shifts in the balance of freight rates have thrown southern yellow pine lumber products into direct competition with west coast lumber. Even before 1956 the competition was extremely keen. After the increase in 1956, a large percentage of manufacturers of southern yellow pine ceased to do business for the simple reason that their principal competitor, the west coast lumbering industry, is engaged in production which, because of the nature of the larger trees harvested and a different method of harvesting, is not a low-wage industry. Whatever may be the impact elsewhere, I know full well that another increase in the statutory minimum wage will constitute a death-blow to a large segment of the remaining portion of lumber manufacturing in South Carolina. It indeed is regrettable that any of those employed by this industry can earn no more than \$1 an hour, but I am not prepared by any means to take a step which would mean

for those sawmill and planer workers a reduction from \$1 an hour to unemployment, mitigated as that unemployment might be by a period of unemployment compensation benefits.

The plywood industry is competitive, not primarily because of other domestic industry, but primarily because of imports from low-wage foreign industry. The results in a statutory minimum wage increase, however, in terms of disemployment will be in the same direction.

Other industries in South Carolina, as well as elsewhere in the Nation, will likewise suffer from the effects of disemployment. The largest manufacturing industry in my State is textiles, and I believe that all Members of this body should be familiar with the fact that the domestic textile industry is experiencing a serious impact from low-wage imports. By far the overwhelming proportion of jobs in the textile industry of my State now pay more than the \$1 minimum; and, indeed, most pay more than \$1.25. Probably the largest exception is in the manufacture of garments and apparel, where the pay is usually on a piecework basis. Unfortunately, Mr. President, this is a segment of the textile industry which is most volatile and in which the impact from low-wage imports has been among the most severe. A substantial part of the adjustment to an increased minimum wage will take the form of disemployment of those whose piecework production is too low to comply with the new minimum at the present rate or a slightly higher piece rate. I will not contribute to the unemployment of such people.

It is all well and good to advocate that the increased wages be paid out of profits, but in the lumber, plywood, and garment and apparel industries of my State, the profits just simply do not exist with which to pay increased costs, whether they be labor costs or other costs.

Mr. President, when I refer to the disemployment effects on many low-wage industries in my State, I am not speaking in terms of temporary unemployment. Persons employed in the low-wage industries to which I refer, as well as those in other low-wage industries proposed to be included in the coverage of the Fair Labor Standards Act by this bill, fall into the lower range of our labor force in degree and diversity of skill. It does not take an experienced economist to perceive that unemployment concentrates more every year at a lower point of skill of the labor force. I do not mean to imply that this occurrence is attributable primarily, or even very appreciably, to increases in the minimum wage; for we all recognize that the process of automation and competitive demands for increased efficiency are the principal causes. It is undeniable, however, that a further increase in the statutory minimum wage would give further impetus to such a concentration of unemployment.

The same reasoning, of course, applies to the proposed extension of coverage. There is, however, a cogent reason for rejecting the proposed increase in cov-

erage which goes far beyond economic arguments. The Fair Labor Standards Act purportedly falls within the purview of the National Government by virtue of the power delegated to Congress under the commerce clause. It is my personal opinion that in stretching the power of the National Government under this clause, we have long since departed from the process of reason and entered into the process of rationalization. It is nothing less, however, Mr. President, than an absurdum horrendum to presume that the distinction between interstate and intrastate commerce turns on the dollar volume of business for a particular enterprise. My powers of rationalization simply cannot be stretched that far, and it would be no less than a desecration of my oath to support the Constitution for me to support such a proposition.

ADDITIONAL CIRCUIT AND DISTRICT JUDGES

Mrs. NEUBERGER. Mr. President, I ask unanimous consent that the Chair lay before the Senate the amendment of the House of Representatives to Senate bill 912, the omnibus judgeship bill.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Presiding Officer laid before the Senate the amendment of the House of Representatives to the bill (S. 912) to provide for the appointment of additional circuit and district judges, and for other purposes, which was, to strike out all after the enacting clause and insert:

That (a) the President shall appoint, by and with the advice and consent of the Senate, three additional circuit judges for the second circuit, one additional circuit judge for the third circuit, two additional circuit judges for the fourth circuit, two additional circuit judges for the fifth circuit, one additional circuit judge for the seventh circuit, and one additional circuit judge for the tenth circuit.

(b) In order that the table contained in section 44(a) of title 28 of the United States Code will reflect the changes made by this section in the number of permanent circuit judges for said circuits, such table is amended to read as follows with respect to said circuits:

Circuits:	Number of judges
Second.....	Nine
Third.....	Eight
Fourth.....	Five
Fifth.....	Nine
Seventh.....	Seven
Tenth.....	Six

SEC. 2. (a) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the northern district of Alabama, one additional district judge for the district of Alaska, one additional district judge for the district of Arizona, one additional district judge for the eastern and western districts of Arkansas, one additional district judge for the northern district of California, one additional district judge for the southern district of California, one additional district judge for the district of Colorado, two additional district judges for the district of Connecticut, two additional district judges for the southern district of Florida, one additional district judge for the northern district of Georgia, two additional

district judges for the northern district of Illinois, one additional district judge for the northern district of Indiana, one additional district judge for the southern district of Indiana, one additional district judge for the northern and southern districts of Iowa, one additional district judge for the district of Kansas, two additional district judges for the eastern district of Louisiana, one additional district judge for the western district of Louisiana, two additional district judges for the district of Maryland, one additional district judge for the district of Massachusetts, one additional district judge for the eastern district of Michigan, one additional district judge for the southern district of Mississippi, one additional district judge for the western district of Missouri, one additional district judge for the district of New Jersey, two additional district judges for the eastern district of New York, six additional district judges for the southern district of New York, one additional district judge for the eastern district of North Carolina, one additional district judge for the middle district of North Carolina, one additional district judge for the western district of North Carolina, one additional district judge for the northern district of Ohio, three additional district judges for the eastern district of Pennsylvania, one additional district judge for the middle district of Pennsylvania, two additional district judges for the western district of Pennsylvania, one additional district judge for the district of Puerto Rico, one additional district judge for the eastern and western districts of South Carolina, one additional district judge for the eastern district of Tennessee, one additional district judge for the middle district of Tennessee, one additional district judge for the western district of Tennessee, two additional district judges for the northern district of Texas, one additional district judge for the southern district of Texas, one additional district judge for the western district of Texas.

(b) The existing district judgeship for the middle district of Georgia, created by the Act of March 29, 1949 (63 Stat. 16), entitled "An Act to provide for the appointment of an additional district judge for the middle district of Georgia", and the existing district judgeships for the district of New Mexico and the western district of Pennsylvania created by paragraphs (1) and (5), respectively, of section 2(b) of the Act entitled "An Act to provide for the appointment of additional circuit and district judges, and for other purposes", approved February 10, 1954 (68 Stat. 10, 11), shall be permanent judgeships and the present incumbents of such judgeships shall henceforth hold their offices under section 133 of title 28 of the United States Code as amended by this Act. The Act of March 29, 1949 (63 Stat. 16), and paragraphs (1) and (5) of section 2(b) of the Act of February 10, 1954 (68 Stat. 10, 11), are hereby repealed.

(c) The existing district judgeship for the eastern and western districts of Washington, heretofore provided for by section 133 of title 28 of the United States Code, shall hereafter be a district judgeship for the western district of Washington only, and the present incumbent of such judgeship shall henceforth hold his office under section 133, as amended by this Act.

(d) In order that the table contained in section 133 of title 28 of the United States Code will reflect the changes made by this section in the number of permanent district judgeships for said districts and combination of districts, such table is amended to read as follows with respect to said districts:

"Districts:	Judges
Alabama:	
Northern	3
Alaska	2
Arizona	3

"Districts:	Judges
Arkansas:	
Eastern and Western	2
California:	
Northern	8
Southern	12
Colorado	3
Connecticut	4
Florida:	
Southern	6
Georgia:	
Northern	3
Middle	2
Illinois:	
Northern	10
Indiana:	
Northern	3
Southern	3
Iowa:	
Northern and southern	1
Kansas	3
Louisiana:	
Eastern	4
Western	3
Maryland	4
Massachusetts	6
Michigan:	
Eastern	7
Mississippi:	
Southern	2
Missouri:	
Western	3
New Jersey	8
New Mexico	2
New York:	
Southern	24
Eastern	8
North Carolina:	
Eastern	2
Western	2
Middle	2
Ohio:	
Northern	6
Pennsylvania:	
Eastern	11
Middle	3
Western	8
Puerto Rico	2
South Carolina:	
Eastern and Western	2
Tennessee:	
Eastern	3
Middle	2
Western	2
Texas:	
Northern	5
Southern	5
Western	3
Washington:	
Western	8

The table contained in section 133 of title 28 of the United States Code relating to Washington is amended by striking therefrom:

"Eastern and Western-----"

(e) Section 123 of title 28 of the United States Code relating to Tennessee is amended by striking therefrom the last paragraph of that section:

"The district judge for the Eastern District in office on November 27, 1940, shall hold court in the Northern and Northeastern Divisions. The other judge of that district shall hold the terms of court in the Southern and Winchester Divisions. Each may appoint and remove all officers and employees of the court whose official headquarters are located in the divisions within which he holds court and whose appointments are vested by law in a district judge or chief judge of a district."

(f) (1) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the eastern district of Michigan. The first vacancy occurring in the office of district judge in said district shall not be filled.

(2) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the district of Nevada. The first vacancy occurring in the office of district judge in said district shall not be filled.

(3) The President shall appoint by and with the advice and consent of the Senate, one additional district judge for the southern district of Ohio. The first vacancy occurring in the office of district judge in said district shall not be filled.

(4) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the northern district of Ohio. The first vacancy occurring in the office of district judge in said district shall not be filled.

(5) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the eastern and western districts of Washington. The first vacancy occurring in the office of district judge in either of said districts shall not be filled.

SEC. 3. The second sentence of section 81 (a) (2) of title 28, United States Code, is hereby amended to read as follows:

"Court for the Northeastern Division shall be held at Huntsville and Decatur."

SEC. 4. Section 98 of title 28, United States Code, is amended to read as follows:

"§ 98. Louisiana

"Louisiana is divided into two judicial districts to be known as the Eastern and Western Districts of Louisiana.

"EASTERN DISTRICT

"(a) The Eastern District comprises two divisions.

"(1) The New Orleans Division comprises the parishes of Assumption, Jefferson, Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the Baptist, Saint Tammany, Tangipahoa, Terrebonne and Washington.

"Court for the New Orleans Division shall be held at New Orleans.

"(2) The Baton Rouge Division comprises the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Point Coupee, Saint Helena, West Baton Rouge, and West Feliciana.

"Court for the Baton Rouge Division shall be held at Baton Rouge.

"WESTERN DISTRICT

"(b) The Western District comprises six divisions.

"(1) The Opelousas Division comprises the parishes of Evangeline and Saint Landry.

"Court for the Opelousas Division shall be held at Opelousas.

"(2) The Alexandria Division comprises the parishes of Avoyelles, Catahoula, Grant, La Salle, Rapides, and Winn.

"Court for the Alexandria Division shall be held at Alexandria.

"(3) The Shreveport Division comprises the parishes of Bienville, Bossier, Caddo, Claiborne, De Soto, Natchitoches, Red River, Sabine, and Webster.

"Court for the Shreveport Division shall be held at Shreveport.

"(4) The Monroe Division comprises the parishes of Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll.

"Court for the Monroe Division shall be held at Monroe.

"(5) The Lake Charles Division comprises the parishes of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, and Vernon.

"Court for the Lake Charles Division shall be held at Lake Charles.

"(6) The Lafayette Division comprises the parishes of Acadia, Iberia, Lafayette, Saint Martin, Saint Mary, and Vermilion.

"Court for the Lafayette Division shall be held at Lafayette."

SEC. 5. The second sentence of section 86 of title 28, United States Code, is hereby amended to read as follows:

"Court shall be held at Bridgeport, Hartford, New Haven, and Waterbury."

SEC. 6. The second sentence of section 93(b)(2), title 28, United States Code, is hereby amended to read as follows:

"Court for the Southern Division shall be held at Alton, Quincy, and Springfield."

SEC. 7. The second sentence of section 102(b)(1) is hereby amended to read as follows:

"Court for the Southern Division shall be held at Grand Rapids, Kalamazoo, and Lansing."

SEC. 8. The limitations and restrictions contained in section 142 of title 28, United States Code, shall be waived with respect to the holding of court at Kalamazoo, Michigan, by the United States District Court for the Western District of Michigan, and at Fayetteville, North Carolina, by the United States District Court for the Eastern District of North Carolina.

Mrs. NEUBERGER. Mr. President, I move that the Senate disagree to the amendment of the House of Representatives to Senate bill 912, request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. EASTLAND, Mr. KEFAUVER, Mr. JOHNSTON, Mr. McCLELLAN, Mr. ERVIN, Mr. DIRKSEN, Mr. WILEY, and Mr. HRUSKA the conferees on the part of the Senate.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mrs. NEUBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. NEUBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator from Oregon yield?

Mrs. NEUBERGER. I yield.

Mr. MANSFIELD. How much time remains for debate on the bill?

The PRESIDING OFFICER. The proponents have 18 minutes remaining; the opponents have 33 minutes remaining.

Mr. MANSFIELD. I thank the Chair.

Mr. JAVITS. Mr. President—

Mr. GOLDWATER. Mr. President, I am happy to yield 10 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 10 minutes.

Mr. JAVITS. Mr. President, as we approach the conclusion of our consideration of the pending bill, I wish to make a brief statement. I have listened with great interest to the remarks of my colleagues who have taken their positions in regard to the bill; and I have listened with especial interest to the remarks the Senator from Arizona [Mr. GOLDWATER] has made on the bill. I wish to address myself to one or two points in connection with it.

First, let me state that I favor the bill, and shall vote for its passage.

We must realize that the very competition in which we are engaged in the world today makes this bill most important, particularly in terms of its impact on the economy of our Nation, in the competition with the economies of the other free nations of the world, but have particularly in the grim competition with the economy of the Soviet Union. If we need a lesson in that respect, one may point to what is happening at present in connection with what appears to be the Communist-inspired fortification of an island only 90 miles from our shores, where a very key base is located.

In that connection, I wish to address myself to this bill.

First, I should like to emphasize the fact that we are competing with the Communists. Consequently, the morale of our people needs to be high; and in within our power to keep high both our standard of production and our standard of consumption, in order that the standard of living of our people may also be high.

The widespread understanding of that fact explains why the American business community, by and large, has not taken very serious exception to this minimum wage bill. Many of the industries and businesses concerned have sought to obtain exemptions or accommodations for their particular situations; but, on the whole, there has not been a revolt by American business against the proposal

to make the minimum wage, by means of this bill, more nearly conform to the economic situation of our Nation, in terms of the cost of living and the state of our productive machine. That is a very important point, because it bears upon the morale factor to which I have referred.

Although we speak in very broad terms about this effect of the bill, let us remember that although the bill will increase the minimum wage for the almost 24 million workers who now are covered by existing minimum wage legislation, and although the bill will for the first time bring under minimum-wage coverage approximately 4 million workers, all of these two groups of workers are not by any means the ones who will receive the benefits of the minimum-wage provisions of the bill. On the basis of the \$1 an hour minimum wage which will first apply to those newly covered, it is estimated that approximately 780,000 workers will be affected; and the increase to \$1.25 will be effective as to 1,500,000 of the newly covered workers. These increases recognize the fact that the standard of productivity has increased, that the standard of living has increased. Thus, indeed, the enactment of the bill will provide a fundamental, concrete basis under the standard of living; and that basis is of great importance in terms of the morale of our people.

My reason for speaking at this time is that we must constantly "keep our eye on the ball." To win in this economic struggle against the Communists, American working men and women must have a decent standard of living.

We are going to win the struggle against the Communists if we have the American workingman inspired to doing his utmost, in respect of this struggle, and if we have the American economic system dedicated to productivity, in terms of that struggle, and to operating in the public interest, whether that means in terms of foreign aid programs, foreign assistance programs, or devoting the aid of technicians, who are so important to the American effort, and in devoting those efforts to the underdeveloped areas, and in being satisfied not alone to make a profit, but to have also peace in the world.

In short, I wish to call to the attention of management and labor what it means to keep our eye on the ball. For example, we are investing far more than we should in certain elements of our new capital investment, and far less than we should in other capital investment. We are brought up short by newspaper stories of an authoritative Government study of a comparison of capital investment as between the United States and the Soviet Union, dated February 1961. There is a newspaper report relating to that report, appearing in the Sunday New York Times of April 16, 1961, which I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. REPORTS RISE IN SOVIET CAPITAL—ECONOMISTS SAY RUSSIANS LEAD AMERICANS IN RATE OF INDUSTRIAL INVESTMENT

(By Harry Schwartz)

A U.S. Government study has found that Soviet investing of capital in industry and agriculture during recent years has been significantly higher than that in the United States.

Government economists have concluded that "the annual expansion of Soviet industrial capacity is as great as that in the United States and will soon be much greater." These and other conclusions of the study appear to suggest that if present trends continue, Premier Khrushchev may not be proved wrong in his boasts that the Soviet Union will outproduce the United States industrially well before the end of the century.

The key finding of the study is that in 1959, new Soviet industrial investment, measured in constant American prices of 1955, was \$29,900 million, almost 70 percent more than the corresponding American investment of \$17,600 million. In 1951, during the Korean war, the picture was sharply different. The United States then invested \$18,100 million in industrial plant and equipment as against only \$11,300 million in the Soviet Union.

Soviet investing in agriculture caught up with that of the United States as long ago as 1954. In 1959 it was more than twice as great when measured in 1955 American prices, \$10,100 million against \$4,800 million.

UNITED STATES LEADS IN HOUSING

Among major economic areas, U.S. investments in 1959 exceeded Soviet investment by a large margin in housing, transportation, and communication. In both areas, the size of the American effort in 1959 was almost twice as great as the comparable volume of Soviet investment.

The Government study forecasts that rapid Soviet economic growth will continue and that the share of annual Soviet production devoted to investment will probably increase. The latter conclusion implies that unless there is a very sharp increase in American investment in industrial capacity, the present margin of Soviet superiority in the building of new capacity for manufacturing and mining will increase with time.

These conclusions have emerged from what appears to be a comprehensive and detailed study of investment in the United States and the Soviet Union. The economists engaged in it twice computed new investment in both countries for the period 1950 to 1959, once in American prices of 1955 and again in Soviet rubles of 1955.

EITHER FIGURES APPLY

While the dollar and ruble figures diverge somewhat because of the different price structures in the two countries, the overall conclusions drawn by the study do not appear to depend essentially upon whether ruble or dollar figures are used.

The study found that total capital investment in all areas of each country's economy changed as follows in the two countries:

In the United States new investment rose, in terms of American 1955 prices, from \$58,300 million in 1950 to \$71,300 million in 1959, less than 25 percent.

In the Soviet Union, new capital investment tripled from \$21,500 million in 1950 to \$33,600 million in 1959. The latter figure was still less than the total American capital investment but the report predicts total Soviet investment will equal that in the United States in the early sixties.

SOVIET STRESSED INDUSTRY

The Soviet investment pattern, however, the report points out, was aimed primarily at increasing Soviet capacity to produce industrial and agricultural commodities. Thus, the stress was put on new factories, new mines, new machinery. Types of investment that have been very important here—the building of new highways or shopping centers for example—have been relatively unimportant in the Soviet Union.

The Soviet stress on increasing production capacity is indicated by the study's findings on the acquisition of new equipment by American and Soviet industry this last decade. In 1950, U.S. industry acquired \$9 billion worth of new equipment as compared with \$6,100 million acquired by Soviet industry. In 1959, on the other hand, Soviet industry acquired \$18 billion worth of new equipment, three times as much as in 1950, while American industrial equipment acquisitions came again to only \$9 billion.

The study's authors warn that there are serious methodological problems in such international comparisons and also imperfections in their data. But they leave no doubt of their convictions that the overall trends in Soviet and American investment found by the study are both important and disturbing for the future of the economic race between the countries.

Mr. JAVITS. I read from the article:

The key finding of the study is that in 1959, new Soviet industrial investment, measured in constant American prices of 1955, was \$29,900 million, almost 70 percent more than the corresponding American investment of \$17,600 million. In 1951, during the Korean war, the picture was sharply different. The United States then invested \$18,100 million in industrial plant and equipment as against only \$11,300 million in the Soviet Union.

The article then goes on to point out that the Soviet stress is on increased industrial capacity in the fundamental industries, whether it is machinery or steel, which make for new industrial power for the "muscle" of an industrial society. The reporter in the articles says the stress in the Soviet Union has been on new factories, new mines, new machinery, whereas with us the stress has been on the building of new highways or new shopping centers.

This very striking difference is most important to the consideration of this bill, for, at one and the same time, we must seek to keep at a high level the morale of the workers in terms of a minimum wage—we must assure the workers of the decent standard of living which the American economy can provide—but we must at the same time call on management and labor for increased productivity, for the struggle in the cold war, as it was in the hot war, is a struggle of production.

The President has today made tax proposals designed to materially improve prospects for increased investment in capital goods. I think that is all to the good. The President has made proposals which would induce investments in the underdeveloped areas, rather than in the more developed areas. But none of this effort will work, nor will the minimum wage increase, which we shall be able to provide by passing the bill today, effectively help, in terms of the morale of our workers, unless we increase the

"tough" productivity, which is in steel, new factories, and new machinery, and unless we are determined to cut out featherbedding and the "easy way," whether it is among workers or in management.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. NEUBERGER. I yield 1 additional minute to the Senator from New York.

Mr. JAVITS. Many of my colleagues will agree with me that there is some featherbedding and the "easy way" is featherbedding in management. The standards for vice presidents in this cold war struggle have to be just as severe as the standards for the mechanic.

I would not feel, in good conscience, that I could vote for the bill, as I shall, unless I stated these truths. I hope to have the opportunity, whether it is in my bill, a bill of the Senator from Arizona or other Senators, to vote that way.

Whatever we may disagree on, we must all agree that it takes productive muscle to win the cold war, the epochal struggle in which we are presently engaged.

Mr. McNAMARA. Mr. President, will the Senator yield 1 minute to me?

Mrs. NEUBERGER. I yield 1 minute to the Senator from Michigan.

Mr. McNAMARA. Mr. President, as we draw toward a final vote, I should like to pay tribute to the many who helped see the minimum wage bill through to a successful conclusion.

Anyone charged with the responsibility of being floor manager of such a complex and technical bill knows very well the teamwork that is essential in this effort.

First, my colleagues on the Labor Subcommittee, and the full Labor and Public Welfare Committee, ably presided over by the distinguished Senator from Alabama [Mr. HILL] deserve a vote of thanks for carrying this bill through the legislative process, with a minimum of wasted time.

I also want to thank the leadership on both sides of the aisle for their courteous and conscientious attention to this measure, following its being reported from committee.

The President had asked for prompt consideration, and certainly this was accorded him by both the majority and minority leadership.

Also, Mr. President, each of us knows the extremely valuable, but frequently unheralded, work that goes into such a bill by members of the staff.

In this regard, I wish to express my personal thanks, and the thanks of the committee, to Mr. John Sweeney and Mr. Edward Friedman, of the Labor Subcommittee staff.

I also would like to express my gratitude to Mr. Joseph Goldberg, of the Department of Labor, who was loaned to us by the Department, so that we might have the advantage of his excellent technical knowledge.

These gentlemen spent many hours in committee, and here in the Senate, helping to iron out the many complexities in a bill of this sort.

They all deserve our sincere thanks for an excellent job.

Mrs. NEUBERGER. Mr. President, I yield 10 minutes to the Senator from Ohio [Mr. Young].

JOHN BIRCH SOCIETY

Mr. YOUNG of Ohio. Mr. President, for more than 10 years certain congressional committees have vigorously concentrated their fire on internal communism. Ignored in recent years has been the development of fascism in America in the form of a secretive organization known as the John Birch Society. This fascist group numbers in its ranks former officials of the National Association of Manufacturers, retired military leaders and a wide assortment of out-and-out crackpots. Its leader, a former candy manufacturer from Massachusetts, has written his equivalent to Hitler's "Mein Kampf," in which he ridicules democracy. He charges that former President Eisenhower is a Communist sympathizer, and he maligns many other highly respected American leaders.

Its every action and policy is contrary to the traditions of our Republic. From promoter Welch right down the line into every cell, the rightwing active members—termed by the St. Louis Post Dispatch "Birchsaps"—not only pass out disturbing comments and false charges against neighbors, against leaders in parent-teacher association groups, and even against members of the clergy and against loyal, elected and appointed government, State and local, officials. But the principles they advocate, if adopted, would turn back the clock 90 years; would repeal and rescind the 20th century.

Mr. President, Robert Welch, self-appointed vigilante, head of the John Birch Society, is keeping inviolate some personal secrets. He will not disclose publicly how many members there are in his organization. He will not disclose the names of his members. He will not inform the public of the number of cells in the John Birch Society.

Above everything else, he will not disclose the names of those silly persons who paid \$1,000 to be life members of the John Birch Society.

It goes without saying that this self-appointed "fuehrer" refuses to give any accounting for the money he receives in life memberships and in dues.

He has fixed this intake at \$24 per year for men who become members. For women, he allows a cut rate of \$12 per year.

Mr. President, Robert Welch, retired lawyer and candy manufacturer of Belmont, Mass., recently addressed an audience of 6,000, each one of whom paid \$1 admission fee. Though his demagogic speech lasted 90 minutes, he was well paid. One technique of the members of the John Birch Society, which they of course acquire from their leader, is to accuse persons who disagree with their views as being Communist sympathizers. They make these brave charges without any documentation nor justification.

We in America face an appalling threat of Communist aggression but that threat comes from Red China with its population of 650 million and from the Soviet Union with a population of more than 200 million. Members of the Birch Society claim to see Communists under neighbor's beds. Their dictator Welch, who is a self-appointed vigilante playing God with other people's patriotism, declaims he is anti-Communist. He alleges that there are 7,000 ministers of the Gospel in the United States who are Communists or Communist sympathizers. He could not name 70 nor even 7. He is guilty of uttering demagogic, untruthful, and wildly fantastic charges.

Mr. President, Dictator Franco of Spain, is also anti-Communist. Hitler and Mussolini were anti-Communists up to the time they met violent deaths. Does anticommunism alone qualify a man as a loyal American? What can serious-minded Americans really think of this man Welch who made money as a lawyer and as a candy manufacturer and now is making much more money as a promoter and denunciator? This fellow has termed former Presidents Eisenhower and Truman as "Communist sympathizers." He denounced the late John Foster Dulles and his brother, Allen Dulles, who is presently Director of our Central Intelligence Agency as pro-Communist and Communist. He is urging the impeachment of the Chief Justice of the United States, Earl Warren, who is a thoroughly great and loyal American and who was vice presidential candidate of the Republican Party. What can Americans think of a fellow such as this, other than that he has a wicked tongue and is a crackpot or an unscrupulous, mercenary demagog and slick promoter?

Mr. President, the facts are that we who are rank and file Americans can well consider Welch and those active in his John Birch Society as being subversive of the worst kind. While pretending to be loyal Americans, they are in reality fomenting suspicion against their neighbors, in the churches, and in the universities.

When Robert Welch states the impeachment of Chief Justice Earl Warren is "just one of our specific objectives," he is seeking to undermine the confidence of people in a loyal and dedicated American leader while at the same time pretending that he himself is a loyal American.

Attorney General Robert F. Kennedy is correct in his statement that the John Birch Society "is ridiculous" and that its members "make no contribution to the fight against communism here in the United States, and in fact—if anything, they are a hindrance." The California State Senate factfinding committee on Un-American activities has announced that it has started an inquiry into the John Birch Society. Personally my view is that as not one of the members of this society, nor its leader, Welch, has committed any overt act of force and violence against constituted authority in this country, I feel there is no occasion for any congressional or legislative investigation of this secret society. Welch

has the same right all Americans cherish—to enjoy the freedom of speech.

In 1854 and 1856, members of the Know Nothing Party elected candidates to office and their candidate for President of the United States in 1856, Millard Fillmore, received many thousands of votes. They claimed that the Pope was coming to America to establish the Vatican somewhere along the Mississippi River. They denounced immigration laws and members of the Catholic Church; they termed themselves a native American party. Like a wave of hysteria, the movement spread through many States from the 1840's to 1856. Then after 1856, the "know nothing" movement died and nothing further was heard of it. Know-nothingism of 100 years ago died the same death that the John Birch Society will die of—unwept, unhonored, and unsung. Leaders of the John Birch Society are busy denouncing the whole foreign-aid program of President Eisenhower and the foreign-aid program being carried forward by this administration.

Misguided citizens who become members of the John Birch Society, even briefly, are making the battle against communism more difficult for governmental agencies such as the FBI. J. Edgar Hoover, Director of the FBI, has denounced activities of the sort practiced by the John Birch Society. Many persons who have become members are really men and women of good will and their motives are of the best. They have been duped by a slick promoter of a secret society whose methods are unconscionable and whose statements are fantastically false.

Mr. President, like the "know nothings" of more than 100 years ago and the "\$50 every Friday" movement of recent years, this will come and go. However, the strength and power of our Republic and the American way of life will grow and grow.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

The Senate resumed the consideration of the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

Mrs. NEUBERGER. Mr. President, I yield 10 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. There are only 6 minutes remaining for the proponents.

Mr. GOLDWATER. Mr. President, I am happy to yield 10 minutes to the Senator from North Carolina, because I know the time of the proponents is getting rather short.

Mr. ERVIN. Mr. President, perhaps I could finish in the 6 minutes. I appreciate very much the offer of the acting majority leader [Mrs. NEUBERGER]

and also of the acting minority leader [Mr. GOLDWATER].

Mr. President, I wish to make it plain why I shall vote for H.R. 3935 on its final passage, notwithstanding my absolute disapproval of the false definition of interstate commerce and the arbitrary classification of various enterprises set out in paragraph (s) of section 2, which appears on pages 14 and 15 of the bill, and which is designed to add a new paragraph (s) to section 3 of the Fair Labor Standards Act of 1938. For clarity and convenience, I shall hereafter call this paragraph 3(s).

I wish to state at the outset that despite my emphatic disapproval of paragraph 3(s), I am of the opinion that H.R. 3935 is a vast improvement in at least two respects over the similar bill which the Senate debated at its post-convention session last August. In the first place, most of the provisions of H.R. 3935 are consistent with the constitutional definition of interstate commerce; and in the second place, H.R. 3935 expressly excludes from its coverage certain local enterprises which the other bill attempted to bring into the maw of Federal regulations.

Most major pieces of Federal legislation are not all good or all bad. It is inevitable that this should be so. Such legislation is obtainable only through compromise of the varying views of a majority of the 100 Members of the Senate and a majority of the 435 Members of the House.

A Senator is at liberty to seek to improve any bill by amendments until such bill is read the third time and the question of its final passage arises. When these events occur, however, the Senator must vote the completed bill up or down. If the bill contains both good and bad provisions, the Senator must base his vote on final passage upon his conclusion as to whether the good or the bad provisions predominate. Under article I of the Constitution, Congress has the power to regulate interstate commerce, which is defined in clause 3 of section 8 as commerce "among the several States." Under the 10th amendment to the Constitution, the power is reserved to each State to regulate intrastate commerce, which is commerce within such State.

As one who shares Gladstone's belief that the Constitution of the United States is the most wonderful work ever struck off at a given time by the brain and purpose of man, I believe that the power of the Congress to regulate interstate commerce and the power of the State to regulate intrastate commerce should be preserved. Indeed, in my opinion, the preservation of these two separate powers is essential to the preservation of our federal system.

For this reason, I have always favored the Fair Labor Standards Act of 1938, which constituted a valid exercise of the power of Congress to regulate interstate commerce because it restricted its coverage to the employees of industries engaged in interstate commerce or in the production of goods for interstate commerce.

For a like reason, I favor the minimum wage law of North Carolina,

which establishes a minimum wage of 75 cents an hour for the employees of most industries engaged in intrastate commerce, that is, commerce within North Carolina. I am confident that the North Carolina Legislature will increase the coverage of this law and the minimum wage thereby established as soon as it finds such action on its part to be feasible.

H.R. 3935, which is to be cited as the "Fair Labor Standards Amendments of 1961," has two objects in view. The first is to increase the minimum wages of employees now covered by the Fair Labor Standards Act of 1938 from \$1 to \$1.25 an hour over a period of 2 years and 4 months; and the second is to extend the coverage of the act to employees of certain enterprises not now covered.

While I am conscious of the possibility that the proposed increase in the minimum wages of those already covered by the act may work severe hardships in the case of some industries, I am satisfied that the overwhelming majority of industries employing persons now covered by the act will be able to adjust their compensation rates to the increased minimum wages without too much difficulty, and thereby enable their employees to share more fully in the fruits of their labor.

For this reason, I favor the first object of H.R. 3935 and wish to vote for its provisions increasing the minimum wages of employees already covered by the Fair Labor Standards Act from \$1 to \$1.25 an hour over a period of 2 years and 4 months.

I would favor any reasonable extension of the benefits of the Fair Labor Standards Act to persons not now covered if such extension of coverage were confined to employees of enterprises engaged in interstate commerce or in the production of goods for interstate commerce as these terms are defined in clause 3 of section 8 of article I of the Constitution and section 3 of the Fair Labor Standards Act itself.

But I am opposed to that portion of the second object of H.R. 3935 which is embodied in paragraph 3(s).

The opening clause of this paragraph reads as follows:

Enterprise engaged in commerce or in the production of goods for commerce means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person.

When this opening clause is translated from legal gobbledygook into plain English, it asserts, in substance, that an enterprise is engaged in interstate commerce or in the production of goods for interstate commerce if those employed in it handle, or sell, or work on goods that have been moved in times past in interstate commerce or have been produced in times past for interstate commerce by any person.

This attempted new definition of when an enterprise is engaged in interstate commerce or in the production of goods for interstate commerce is absolutely inconsistent with the constitutional provi-

sion granting Congress the power to regulate commerce "among the several States," and with the constitutionally sound definitions of these same terms in section 3 of the Fair Labor Standards Act. Moreover, it asserts to be true something which is obviously false.

A sale made or a service rendered within the boundaries of a single State constitutes intrastate commerce, even though the sale or the service may involve goods made in another State and shipped in interstate commerce. Both the English language and the decisions of the courts declare this to be so, and Congress cannot make it otherwise by uttering a legislative lie.

If Congress can expand its powers under the Constitution by giving false meanings to such constitutional terms as "commerce among the several States," then ordered government under a written Constitution has perished in America.

Before H.R. 3935 was read a third time and the question of its final passage arose, I did everything within my power to remove from the bill by appropriate amendments the provisions of paragraph 3(s). To this end I voted for the Holland amendment, the Monroney amendment, and the Russell amendment. Any one of these amendments would have removed the constitutional objections to the bill. Each of these amendments suffered defeat.

Notwithstanding this fact, I will vote for the bill on final passage for these reasons.

The conference committee will have an opportunity to remove the objectionable features from the bill. If this should not occur, then in my judgment the courts will be compelled to declare that the attempt to expand the powers of Congress over retail and service establishments engaged solely in intrastate commerce by the false definitions embodied in paragraph 3(s) are void under article I and the 10th amendment, and that the second object of H.R. 3935 is valid only insofar as it undertakes to extend the coverage of the Fair Labor Standards Act to uncovered employees of enterprises actually engaged in interstate commerce or actually engaged in the production of goods for interstate commerce.

The courts are expressly empowered to take such action and at the same time to uphold the validity of the first object of H.R. 3935 by section 19 of the Fair Labor Standards Act, which reads as follows:

If any provision of this chapter or the application of such provision to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

While I do not desire to belabor the point, I have misgivings concerning the classification embodied in subsections (1) to (6) of paragraph 3(s) as to the enterprises to be embraced within the additional coverage. The classification appears to be without legal or economic rhyme or reason and might well be adjudged by the courts to constitute an arbitrary classification within the pur-

view of the due process clause of the fifth amendment.

In closing I wish to thank my good friends the majority leader and the acting majority leaders for yielding me the time to make this statement. While they are always firm in the discharge of their duties, they are uniformly fair and tolerant toward those whose views may differ from theirs.

Mr. GOLDWATER. Mr. President, I yield 2 minutes to the Senator from Kansas.

Mr. CARLSON. Mr. President, I appreciate very much the courtesy of the Senator from Arizona. I wish to express my views on the proposed legislation.

Mr. President, I think it is unfortunate that we have considered minimum wage legislation at a time when we have high unemployment in our Nation.

It seems to me that the timing of this legislation is unfortunate as we are striving to increase employment. Minimum wage legislation should be considered and passed at a time when we have high employment.

This legislation, when enacted, in my opinion will seriously affect many of our people who are presently employed on a part-time basis and it will also have a serious effect on small industry. It is inflationary and will add additional costs to industry and agriculture when we need to get our economy on a stable basis.

After hearing the debate and voting for many amendments to this bill, I shall have to vote against it on final passage, because in my opinion, it will throw out of work many of our elderly people who are trying to supplement their social security income by holding low-paying jobs or doing part-time work. It will be particularly hard on many of our students in college who are presently working on a part time basis. The handicapped and the less efficient workers will be relieved of their present employment when it is necessary to reduce the work force. It will mean that large numbers of our workers who are in marginal employment will lose their jobs.

From every angle, I think it is unfortunate that we should be passing this legislation at this time.

Mrs. NEUBERGER. Mr. President, I suggest the absence of a quorum.

Mr. MANSFIELD. Mr. President, will the Senator withhold her request for a moment?

Mrs. NEUBERGER. I withhold my request.

Mr. MANSFIELD. Would the Senator consider the possibility of both sides yielding back the remainder of their time, except 2 minutes, so as to conclude the general discussion on the bill?

Mrs. NEUBERGER. That is agreeable to me.

Mr. GOLDWATER. I would be very happy to do that. I would yield back all the time, but I am not certain of the desires of the minority leader. However, I will yield back all time except 2 minutes so that the minority leader may have that time.

Mrs. NEUBERGER. I yield back all time except 2 minutes.

Mr. MANSFIELD. Mr. President, I ask the attachés of the Senate to notify all Senators that we will be voting within 10 minutes at the latest.

Mrs. NEUBERGER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be not charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. NEUBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. NEUBERGER. Mr. President, I yield 1 minute to the distinguished Senator from Montana.

Mr. MANSFIELD. Mr. President, I desire to pay my respects to the chairman of the subcommittee which handled the bill [Mr. McNAMARA]. I and all those who serve with him on the committee think he has rendered outstanding service, and has acted with understanding and tolerance. I would like, also, to compliment and commend the distinguished majority whip, Mr. HUMPHREY, who made such a great contribution to the debate and ably defended the administration and the committee's point of view.

I also pay my respect to all Senators who offered amendments, because the amendments were most germane to the issue before the Senate.

I compliment the Senate as a whole for the high caliber of the debate and the due consideration which was given the measure. It is my hope that the bill will pass by an overwhelming vote.

Mr. MONRONEY. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield to the Senator from Oklahoma.

Mr. MONRONEY. Mr. President, I intend to vote for the bill with the feeling that when the bill goes to conference it will be greatly improved, and that the test of interstate commerce as maintained by the House will prevail. Therefore, I shall not oppose the bill at this time.

Mr. GOLDWATER. Mr. President, I yield myself 1 minute. As the debate comes to a close, I wish to pay my respects and to give my heartfelt thanks to Mr. Michael Bernstein, Mr. Raymond Hurley, Mr. John Stringer, Mr. George Wray, and other minority members of the staff who worked so long and diligently in preparing amendments for the minority position, and for their splendid help on the floor. While they are minority staff members, they performed service which was just as valuable to the Senate as that of the majority staff members, because the minority must always be heard.

Mrs. NEUBERGER. Mr. President, on the passage of the bill, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do the Senators in control of the time yield back the remainder of their time?

Mrs. NEUBERGER. I yield back the remainder of my time.

Mr. GOLDWATER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CARLSON (when his name was called). On this vote I have a pair with the senior Senator from California [Mr. KUCHEL]. If he were present, he would vote "yea"; if I were permitted to vote, I would vote "nay." I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the junior Senator from Virginia [Mr. ROBERTSON]. Were he present and voting, he would vote "nay"; were I permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. SCHOEPPPEL (when his name was called). On this vote I have a pair with the senior Senator from Indiana [Mr. CAPEHART]. Were he present, he would vote "yea"; were I permitted to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Pennsylvania [Mr. CLARK] is absent on official business.

I also announce that the Senator from Virginia [Mr. ROBERTSON] is absent because of illness.

I further announce that the Senator from Pennsylvania [Mr. CLARK] is out of the country on important business; he is addressing the Norwegian Parliament on the subject of "World Peace."

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. CLARK] would vote "yea."

Mr. DIRKSEN. I announce that the Senator from Indiana [Mr. CAPEHART] is absent on official business and his pair has been previously announced by the Senator from Kansas [Mr. SCHOEPPPEL].

The Senator from California [Mr. KUCHEL] is absent on official business and his pair has been previously announced by the Senator from Kansas [Mr. CARLSON].

The result was announced—yeas 65, nays 28, as follows:

[No. 35]

YEAS—65

Aiken	Hart	Monroney
Anderson	Hartke	Morse
Bartlett	Hayden	Moss
Beall	Hickey	Muskie
Bible	Hill	Neuberger
Boggs	Humphrey	Pastore
Burdick	Jackson	Pell
Bush	Javits	Prouty
Byrd, W. Va.	Johnston	Proxmire
Cannon	Jordan	Randolph
Carroll	Keating	Saltonstall
Case, N.J.	Kefauver	Scott
Chavez	Kerr	Smathers
Church	Lausche	Smith, Mass.
Cooper	Long, Mo.	Smith, Maine
Dodd	Long, Hawaii	Sparkman
Douglas	Long, La.	Symington
Engle	Magnuson	Wiley
Ervin	McCarthy	Williams, N.J.
Fong	McGee	Yarborough
Gore	McNamara	Young, Ohio
Gruening	Metcalf	

NAYS—28

Allott	Blakley	Butler
Bennett	Bridges	Byrd, Va.

Case, S. Dak.	Goldwater	Russell
Cotton	Hickenlooper	Stennis
Curtis	Holland	Talmadge
Dirksen	Hruska	Thurmond
Dworshak	McClellan	Williams, Del.
Eastland	Miller	Young, N. Dak.
Ellender	Morton	
Fulbright	Mundt	

NOT VOTING—7

Capehart	Kuchel	Schoeppel
Carlson	Mansfield	
Clark	Robertson	

So the bill (H.R. 3935) was passed.

Mr. McNAMARA. Mr. President, it is a pleasure for me to place in the RECORD a summary of the minimum wage bill which we have just passed, and I ask unanimous consent that it may be printed at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MINIMUM WAGE BILL (H.R. 3935)
AS PASSED BY SENATE

1. For presently covered employees the minimum wage is increased to \$1.15 an hour for the first 2 years after the effective date and \$1.25 an hour beginning 28 months after the effective date. Number of employees: 23,900,000.

2. For newly covered employees the minimum wage will be: First year, \$1; second year, \$1.05; third year, \$1.15; fourth year, \$1.25.

3. Overtime compensation for the newly covered will be as follows: First year, no limitation; second year, 44 hours; third year, 42 hours; fourth year, 40 hours.

4. Retail trade (2,487,000): The bill covers retail enterprises which have a million dollars or more in annual sales (exclusive of excise taxes at the retail level) and which purchase or receive goods for resale that move or have moved across State lines which amount in total annual dollar volume of \$250,000 or more.

Gasoline service stations (86,000): Also covered are gasoline service stations which have \$250,000 or more in annual sales (exclusive of excise taxes at the retail level).

From this coverage in the retail trade the bill excludes the following:

- (a) Hotels.
- (b) Motels.
- (c) Restaurant, including lunch counters, caterers and similar retail food services.
- (d) Motion picture theaters.
- (e) Hospitals.
- (f) Nursing homes.
- (g) Schools for handicapped or gifted children.

(h) Amusement or recreational establishments operating on a seasonal basis.

(i) Any small store which has less than \$250,000 in annual sales even if it is in an enterprise that has more than \$1 million in annual sales.

In addition, the bill makes the following special provisions for particular problems in the retail and service trades:

(a) Gasoline service stations which are covered for minimum wage if they have \$250,000 (exclusive of excise taxes at the retail level) or more in annual sales, are exempt from the overtime requirements.

(b) Auto dealers and farm implement retail dealers are exempt from the overtime requirements.

(c) Assistant managers of retail stores will be exempt even if they perform up to 40 percent nonexecutive and nonadministrative work.

(d) Commission employees will be exempt from overtime if more than half their pay is from commissions and if they earn at least time and one-half the minimum rate.

(e) Student workers may be employed in retail trades at subminimum rates under certificates granted by the Secretary in oc-

cupations not ordinarily given to full-time employees.

5. Laundries (140,000): Laundry enterprises are covered for minimum wage and overtime if they have a million dollars or more in annual sales (exclusive of excise taxes at the retail level). Further, the existing exemption for such laundries is limited so that it will not apply to any laundry which does more than 25 percent commercial work or to any laundry which has \$250,000 or more in annual sales and is in competition in the same metropolitan area with a laundry which does more than half of its work across State lines. Finally laundry workers in hotels and restaurants are exempt only if they work in a laundry of their own establishment.

6. Local transit companies (110,000): Covered for minimum wage but not for overtime.

7. Establishments (100,000): Which already have some covered employees under the act are covered for all their employees if they are in an enterprise which has a million dollars or more in annual sales.

8. Construction (1 million): Construction enterprises which have at least \$350,000 in annual business are also covered for minimum wage and overtime.

9. Seamen (100,000): Seamen of American flag vessels are covered for minimum wage but not for overtime.

10. Telephone operators (30,000): The exemption for telephone operators is limited to those employed by an independently owned public telephone company which has not more than 750 telephones.

11. Fish processing (33,000): Seafood processing employees are covered for minimum wage but not for overtime (seafood cannery are treated in this way under the present law).

Total number of newly covered employees: 4,086,000.

12. Other provisions:

(a) Puerto Rico: The minimum wage in Puerto Rico is increased by the same percentage as the mainland minimum, subject to review by industry committees in hardship cases.

(b) Broadcasters: Announcers, news editors, and chief engineers of broadcasting companies located in cities of 50,000 or less population are exempt from overtime.

(c) Bulk petroleum dealers: Independently owned and controlled local bulk petroleum distributors are exempt from overtime if their annual sales are less than \$1 million (exclusive of excise taxes).

(d) Trip rate: Trip rate drivers and drivers' helpers making local deliveries are exempt from overtime if the Secretary of Labor finds that the plan under which they are paid is consistent with the principle of the 40-hour workweek.

(e) Livestock auction operations: Employees working at a livestock auction operated by a farmer are exempt from both minimum wage and overtime on condition that during the workweek in which they are so engaged, they are employed primarily in agriculture by the farmer and are paid at least the minimum rate for hours worked at the auction.

(f) Country elevators: Employees in country elevator establishments in the area of production selling products and services used in the operation of a farm are exempt from both minimum wage and overtime on condition that no more than five employees are employed by the establishment in such operations.

(g) Cotton ginning: Employees employed in ginning of cotton for market in counties where cotton is grown in commercial quantities are exempt from minimum wage. These employees are exempt from overtime under existing law.

(h) Holly wreaths: Homeworkers making natural holly wreaths are exempt from the act.

(i) Board and lodging may be included as wages on a basis of a fair value calculation made by the Secretary. Also, such perquisites may be excluded from wages to the extent that they are excluded under collective bargaining agreement.

(j) The Secretary is authorized to study the employment effects of the import and the export trade in industries covered by the act and to report such studies to the President and to the Congress.

(k) The Secretary is required to study the complicated system of exemptions in the act for the handling and processing of agricultural products as well as the rates of pay in hotels, motels, restaurants and other food service enterprises and to report the results with recommendations to the next session of this Congress.

Mr. McNAMARA. Mr. President, I ask unanimous consent that the bill as engrossed be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the engrossed bill was ordered to be printed in the RECORD, as follows:

Strike out all after the enacting clause and insert: "That this Act may be cited as the 'Fair Labor Standards Amendments of 1961'."

"DEFINITIONS

"SEC. 2. (a) Paragraph (m) of section 3 of the Fair Labor Standards Act, of 1938, as amended, defining the term 'wage', is amended by inserting before the period at the end thereof a colon and the following: 'Provided, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further*, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee'.

"(b) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs:

"(p) 'American vessel' includes any vessel which is documented or numbered under the laws of the United States.

"(q) 'Secretary' means the Secretary of Labor.

"(r) 'Enterprise' means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That, within the meaning of this subsection, a retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but it is not necessarily limited to, an agreement, (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such establishments in the same industry for the purpose

of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

"(s) 'Enterprise engaged in commerce or in the production of goods for commerce' means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

"(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated and if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more;

"(2) any such enterprise which has one or more establishments engaged in laundering, cleaning, or repairing clothing or fabrics if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

"(3) any such enterprise which is engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier;

"(4) any establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;

"(5) any such enterprise which is engaged in the business of construction or reconstruction, or both, if the annual gross volume from the business of such enterprise is not less than \$350,000;

"(6) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000, exclusive of excise taxes at the retail level which are separately stated;

Provided, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce, or a part of an enterprise engaged in commerce or in the production of goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner.

"INVESTIGATIONS OF EFFECTS ON EMPLOYMENT OF FOREIGN COMPETITION

"Sec. 3. Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in fact resulted, or is in fact likely to result, from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress: *Provided*, That he may also include in such report information on the increased employment resulting from

additional exports in any industry under this Act as he may determine to be pertinent to such report.'

"SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

"SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting after the words 'production of goods for commerce' wherever they appear, the following: 'or employed in any enterprise engaged in commerce or in the production of goods for commerce'.

"MINIMUM WAGES

"SEC. 5. (a) (1) Section 6(a) of such Act is amended by inserting after the word 'who' in the portion thereof preceding paragraph (1), the words 'in any workweek'.

"(2) Paragraph (1) of section 6(a) of such Act is amended to read as follows:

"(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section.'

"(3) The first sentence of paragraph (3) of section 6(a) of such Act is amended to read as follows:

"(3) if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time.'

"(b) Subsection (b) of section 6 of such Act is amended to read as follows:

"(b) Every employer shall pay to each of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s), (1), (2), (3), or (5) or by an establishment described in section 3(s) (4) or (6), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at rates—

"(1) not less than \$1 an hour during the first year from the effective date of such amendments; not less than \$1.05 an hour during the second year from such date; not less than \$1.15 an hour during the third year from such date; and not less than the rate effective under paragraph (1) of subsection (a) thereafter;

"(2) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement).'

"(c) Subsection (c) of section 6 of such Act is amended to read as follows:

"(c) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry com-

mittee appointed pursuant to section 5: *Provided*, That (1) the following rates shall apply to any such employee to whom the rate or rates prescribed by subsection (a) would otherwise apply:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, increased by 15 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1961 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Beginning two years after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 10 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

"(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1961 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

"(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the

employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

“(2) In the case of any such employee to whom subsection (b) would otherwise apply, the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1961.

“(3) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except, that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee.”

“MAXIMUM HOURS

“SEC. 6. (a) Subsection (a) of section 7 of such Act is amended by designating such subsection as subsection (a) (1), by inserting after the word ‘who’ the words ‘in any workweek’, and by striking out the period at the end thereof and inserting a semicolon and the word ‘and’ in lieu thereof and adding the following new paragraph (2):

“(2) No employer shall employ any of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1), (2), or (5), or by an establishment described in section 3(s) (4), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this subsection, or (ii) is brought within the purview of this subsection by the amendments made to section 13 of this Act by the Fair Labor Standards Amendments of 1961—

“(A) for a workweek longer than forty-five hours during the second year from the effective date of the Fair Labor Standards Amendments of 1961,

“(B) for a workweek longer than forty-two hours during the third year from such date,

“(C) for a workweek longer than forty hours after the expiration of the third year from such date.

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.”

“(b) Subsection (b) of section 7 of such Act is amended by striking out ‘in excess of forty hours in the workweek’ in paragraph (2) and inserting in lieu thereof the following: ‘in excess of the maximum workweek applicable to such employee under subsection (a).’

“(c) Paragraph (5) of subsection (d) of section 7 of such Act is amended by striking out ‘forty in a workweek’ and inserting in lieu thereof the following: ‘in excess of the maximum workweek applicable to such employee under subsection (a).’

“(d) Paragraph (7) of subsection (d) of section 7 of such Act is amended by striking out ‘forty hours’ and inserting in lieu thereof the following: ‘the maximum workweek applicable to such employee under subsection (a).’

“(e) Subsection (e) of section 7 of such Act is amended (1) by striking out ‘forty hours’ and inserting in lieu thereof ‘the maximum workweek applicable to such employee under subsection (a)’, (2) by striking out ‘section 6(a)’ and inserting in lieu thereof ‘subsection (a) or (b) of section 6 (whichever may be applicable’, and (3) by striking out ‘forty in any’ and inserting in lieu thereof ‘such maximum’.

“(f) Subsection (f) of section 7 of such Act is amended by striking out ‘forty hours’ both times it appears therein and inserting in lieu thereof the following: ‘the maximum workweek applicable to such employee under such subsection’.

“(g) Section 7 of such Act is amended by adding at the end thereof the following new subsection:

“(h) No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period (not less than one month) represents commissions on goods or services.”

“WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

“SEC. 7. Subsection (a) of section 8 of such Act is amended by inserting after the word ‘industries’ where it appears in the first sentence the words ‘or enterprises’; and by inserting after the words ‘production of goods for commerce’ where they appear in the second sentence the following: ‘or in any enterprise engaged in commerce or in the production of goods for commerce’.

“CHILD LABOR PROVISIONS

“SEC. 8. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ‘or in any enterprise engaged in commerce or in the production of goods for commerce.’

“EXEMPTIONS

“SEC. 9. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

“(a) The provisions of sections 6 and 7 shall not apply with respect to—

“(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly

or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

“(2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment’s annual dollar volume of sales of goods or services is made within the State in which the establishment is located, if such establishment—

“(i) is not in an enterprise described in section 3(s), or

“(ii) is in such an enterprise and is a hotel, motel, restaurant, or motion picture theater; or is an amusement or recreational establishment that operates on a seasonal basis, or

“(iii) is in such an enterprise and is a hospital, or an institution which is primarily engaged in the care of the sick, the aged, the mentally ill or defective, residing on the premises of such institution, or a school for physically or mentally handicapped or gifted children, or

“(iv) is in such an enterprise and has an annual dollar volume of sales (exclusive of excise taxes at the retail level which are separately stated) which is less than \$250,000.

A “retail or service establishment” shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

“(3) any employee employed by any establishment (except an establishment in an enterprise described in section 3(s) (2)) engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment’s annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment’s annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, commercial or communications business: *Provided further*, That neither the exemption in this paragraph nor in paragraph (2) shall apply to any employee of a hotel, motel, or restaurant who is engaged in laundering, cleaning, or repairing clothing or fabrics where such services are not performed exclusively for such hotel, motel, or restaurant: *Provided further*, That this exemption shall not apply to any employee of any such establishment which has an annual dollar volume of sales of such services of \$250,000 or more and which is engaged in substantial competition in the same metropolitan area with an establishment less than 50 per centum of whose annual dollar volume of sales of such services is made within the State in which it is located; or

“(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment’s annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or

“(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such

fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or

"(6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

"(7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or

"(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where printed and published or counties contiguous thereto; or

"(9) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members of guests of members of clubs; or

"(10) an individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or

"(11) any switchboard operator employed by an independently owned public telephone company which has not more than seven hundred and fifty stations; or

"(12) any employee of an employer engaged in the business of operating taxicabs; or

"(13) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

"(14) any employee employed as a seaman on a vessel other than an American vessel; or

"(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve; or

"(16) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (1) is primarily employed during his workweek in agriculture by such farmer, and (2) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1); or

"(17) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm:

Provided, That no more than five employees are employed in the establishment in such operations; or

"(18) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities.

"(b) The provisions of section 7 shall not apply with respect to—

"(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

"(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

"(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

"(4) any employee employed in the canning, processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or

"(5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

"(6) any employee employed as a seaman; or

"(7) any employee of a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, not included in other exemptions contained in this section; or

"(8) any employee of a gasoline service station; or

"(9) any employee employed as an announcer, news editor, or chief engineer by a radio or television station having its major studio in a city or town which has a population of not more than fifty thousand, according to the latest available decennial census figures as compiled by the Bureau of the Census, if such city or town is not part of a standard metropolitan statistical area (as defined and designated by the Bureau of the Budget) having a total population in excess of fifty thousand, or if such city is a part of such an area but has a population of not more than twenty-five thousand and such station's major studio is at least forty airline miles from the principal city in such area; or

"(10) any employee of an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if (A) the annual gross volume of sales of such enterprise is not more than \$1,000,000 exclusive of excise taxes, and (B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and (C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale; or

"(11) any employee of a retail or service establishment primarily engaged in the business of selling automobiles, trucks, or farm implements; or

"(12) any employee employed as a driver or driver's helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Secretary shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum workweek applicable to them under section 7(a)."

"SEC. 10. That section 13(d) of such Act, as amended, is amended by inserting before the period at the end thereof the following: 'or to any homemaker engaged in the mak-

ing of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths)'.

"EMPLOYMENT OF STUDENTS

"SEC. 11. Clause (1) of section 14 of such Act is amended by striking out 'and' after 'apprentices,' and by inserting after 'messages,' the following: 'and of full-time students outside of their school hours in any retail or service establishment; Provided, That such employment is not of the type ordinarily given to a full-time employees.'

"PENALTIES AND INJUNCTION PROCEEDINGS

"SEC. 12. (a) Section 16(b) of such Act is amended by adding at the end thereof a new sentence as follows: 'The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection.'

"(b) Section 17 of such Act is amended to read as follows:

"INJUNCTION PROCEEDINGS

"SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15(a)(2) the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947).'

"STUDY OF AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS AND RATES OF PAY IN HOTELS, MOTELS, RESTAURANTS, AND OTHER FOOD SERVICE ENTERPRISES

"SEC. 13. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(c), 13(a)(10) and 7(b)(3), and the complex problems involving rules of pay of employees in hotels, motels, restaurants, and other food service enterprises who are exempted from the provisions of this Act and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data, and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

"EFFECTIVE DATE

"SEC. 14. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment except as otherwise provided in such amendments and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act."

Mrs. NEUBERGER. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. HUMPHREY. Mr. President, I move that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. RANDOLPH subsequently said: Mr. President, Robert G. Ingersoll, in an oration, once said:

The past rises before me like a dream. Again we are in the great struggle for national life.

I hope it is not too nostalgic to recall events of 23 years ago in Congress, when the Fair Labor Standards Act of 1938 became law. Only 15 Members of the Senate in the present session who were serving either in the House of Representatives or in the Senate in the 75th Congress, participated in the passage of the original act.

In the Senate today we have serving with us the Senator from New Mexico [Mr. CHAVEZ] and the Senator from Louisiana [Mr. ELLENDER] who were serving in this body in the 75th Congress. They voted for the original Fair Labor Standards Act. Two Senators still serving in the Senate, the Senator from Virginia [Mr. BYRD] and the Senator from New Hampshire [Mr. BRIDGES], voted against the original act.

Also still serving in the Senate now are the Senator from Arizona [Mr. HAYDEN] and the Senator from Georgia [Mr. RUSSELL], who, according to the RECORD, did not vote on the measure in 1938.

At that time, the vote in Senate favorable to the passage of the Fair Labor Standards Act was 56 to 28. Today, H.R. 3935, which is amendatory of the Fair Labor Standards Act, passed the Senate by a vote of 65 to 28.

Senators who are now serving in this body but who were Members of the House of Representatives in 1938 are: The senior Senator from Washington [Mr. MAGNUSON], the senior Senator from Alabama [Mr. HILL], the junior Senator from Illinois [Mr. DIRKSEN], and the senior Senator from West Virginia. In 1938, we voted for the Fair Labor Standards Act.

The junior Senator from Kansas [Mr. CARLSON], the junior Senator from South Dakota [Mr. CASE], the senior Senator from Arkansas [Mr. McCLELLAN], the junior Senator from Virginia [Mr. ROBERTSON], and the junior Senator from Alabama [Mr. SPARKMAN], as Members of the House of Representatives in 1938, voted against the Fair Labor Standards Act in that year. However, the Senator from Alabama [Mr. SPARKMAN], although he opposed the bill in the House, voted for the conference report.

So six Members of the Senate in 1938, who are still Members of this body, participated then in the passage of the Fair Labor Standards Act and participated in the consideration of the amendment to that act today.

Nine Members of the House in 1938, who are now serving in the Senate, participated in the other body and now in this body in the consideration and the passage of the Fair Labor Standards Act and the amendment thereof.

I hope it is not too nostalgic to indicate that the 15 present Senators who were then Members of the House, together with Senators now serving, is a rather small participation of Senators who voted today and also voted in the House in 1938.

Mr. President, as a Member of the House of Representatives when the Fair Labor Standards Act was before that body in the 75th Congress, I said during debate:

I rise, therefore, with the firm conviction in my own heart that the establishment of the principle is absolutely necessary at the present time.

I feel today as I did then about the importance of such a law. Our action now is a further strengthening influence in our growing economy. Conditions have changed and we have again met the responsibility to improve the original act.

Mr. President, I ask unanimous consent that my remarks may appear immediately following the yea-and-nay vote taken earlier this afternoon on H.R. 3935.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUSSELL subsequently said: Mr. President, I desire to make an observation with respect to the passage of the wage and hour bill. I am inspired to make the observation by a statement made by the distinguished majority leader immediately prior to the vote, in which he congratulated the Senate and several individual Members thereof on the progress of the debate and the tone of the discussion. I was unable to get the floor immediately after the vote, so I make this statement nunc pro tunc.

I, too, wish to compliment the Senate. We have made a notable contribution to the space age. We have risen to dizzy heights of statesmanship, of which none of our predecessors would ever have dreamed, much less ever have aspired to.

We have brought within the grasp of every citizen of the Nation a new feeling of power and have brought romance into the drudgery of the work of every housewife. Every member of every household will now have the opportunity to feel that he is truly a citizen of this Republic. He can have the thrill of having affected the flow of commerce among the great States of the Union merely by sending the old man's shirt out to be washed at the laundry. [Laughter.]

THE FEDERAL TAX SYSTEM—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 140)

Mr. MANSFIELD. Mr. President, the President's message on taxation was transmitted to the Senate today. The message has been read in the House of Representatives. I ask unanimous consent that the message be laid before the

Senate, be appropriately referred, and printed in the RECORD without being read.

The PRESIDING OFFICER. The Chair lays before the Senate the message on taxation from the President of the United States. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The message from the President was referred to the Committee on Finance, as follows:

To the Congress of the United States:

A strong and sound Federal tax system is essential to America's future. Without such a system, we cannot maintain our defenses and give leadership to the free world. Without such a system, we cannot render the public services necessary for enriching the lives of our people and furthering the growth of our economy.

The tax system must be adequate to meet our public needs. It must meet them fairly, calling on each of us to contribute his proper share to the cost of government. It must encourage efficient use of our resources. It must promote economic stability and stimulate economic growth. Economic expansion in turn creates a growing tax base, thus increasing revenue and thereby enabling us to meet more readily our public needs, as well as our needs as private individuals.

This message recognizes the basic soundness of our tax structure. But it also recognizes the changing needs and standards of our economic and international position, and the constructive reform needs to keep our tax system up to date and to maintain its equity. Previous messages have emphasized the need for prompt congressional and executive action to alleviate the deficit in our international balance of payments—to increase the modernization, productivity and competitive status of American industry—to stimulate the expansion and growth to our economy—to eliminate to the extent possible economic injustice within our own society—and to maintain the level of revenues requested in my predecessor's budget. In each of these endeavors, tax policy has an important role to play and necessary tax changes are herein proposed.

The elimination of certain defects and inequities as proposed below will provide revenue gains to offset the tax reductions offered to stimulate the economy. Thus no net loss of revenue is involved in this set of proposals. I wish to emphasize here that they are a "set"—and that considerations of both revenue and equity, as well as the interrelationship of many of the proposals, urge their consideration as a unit.

I am instructing the Secretary of the Treasury to furnish the Committee on Ways and Means of the House a detailed explanation of these proposals in connection with their legislative consideration.

I. LONG-RANGE TAX REFORM

While it is essential that the Congress receive at this time this administra-

America. Under his leadership the Department will continue to be a champion of farmers and farming.

What Freeman is doing is recognizing the facts of life in rural areas, where the mechanization of farming, the economic necessity for larger and larger farms and the lack of nearby industrial jobs drive more and more young men and women from farms to the cities.

The Secretary's immediate objective is a large share in the administration of the area redevelopment, or depressed areas, legislation.

Both the Senate and the House have passed redevelopment bills, and a congressional conference committee is trying to resolve differences between the two measures.

The legislation provides that administration of the \$300 million loan program and the \$89 million in grants provided by the legislation would be centered in the Commerce Department.

ONE HUNDRED MILLION DOLLARS IN LOANS

Freeman hopes that the rural development aspects of the legislation would be operated by the Agriculture Department.

A total of \$100 million in loan authority would be used to attract industry to rural areas. A substantial part of the \$100 million in loans provided for the improvement of water supplies, sewer systems and other community facilities would also go to rural areas.

The Agriculture Department argues that its experience with the 4-year-old rural development program qualifies the Department for administering the rural parts of the depressed areas bill.

Nor is there any opposition from powerful farm State Legislators on Capitol Hill to Agriculture Department administration of much of the depressed areas bill.

Freeman recently reorganized the present rural development program by establishing a Rural Areas Development Board under the chairmanship of John A. Baker, Director of Agricultural Credit.

Operating on a budget of less than \$1 million a year, the present program has concentrated on technical assistance to rural areas that are seeking industry.

[From the Washington Post, Apr. 19, 1961]

RURAL INDUSTRY

Secretary Freeman's efforts to stimulate industrial development in rural areas have far-reaching possibilities. The immediate objective of this movement is to relieve underemployment of farmers, but if it is successful it can have a salutary effect on urban life as well.

A recent report showed that 45 out of every 100 farmer operators did some nonfarm work in 1959 and 36 percent of them earned more from their off-farm jobs than from the sale of agricultural products. Even so, a vast number are seeking new opportunities for part-time work off the farm, and aid for these people must be considered an important part of any general agricultural program. The stimulation of rural industries has been found to be the most effective and practical answer.

Cities have a direct interest in the movement because many of them are now being virtually overwhelmed with new population that they cannot readily absorb. Recent Census Bureau studies show that approximately 84 percent of the increase in the total population of the United States in the last 10 years was concentrated in cities of 50,000 or more and their surrounding areas. The movement is proceeding at a fantastic pace, with consequent overcrowding, transportation chaos, crime, and urban sprawl.

From the viewpoint of the Nation as well as that of the cities it would be desirable to slow down this frantic concentration of pop-

ulation in a relatively few large centers. A national policy of decentralizing industrial growth thus seems to be in order. The location of industrial plants in rural areas, where feasible, would serve the double purpose of relieving shaky economies of many small towns while easing the growth problems of the big cities.

The idea is not, of course, a new one. For some years the Department of Agriculture under Secretary Benson promoted the rural development program, and some 200 projects in 40 States are now underway. The present administration has modified the objectives somewhat and added the word "Areas" to the name, but the basic idea continues to be the location of more industry within reach of part-time farmers. Secretary Freeman would like to steer the agricultural end of the depressed-areas program in the same direction.

From these beginnings a new national policy may well emerge. As farms increase in size and still less manpower is needed to produce food, there are many advantages in taking factories to the country instead of luring more people into the large cities. Congress may well conclude that this is the only practical way of maintaining some degree of balance between rural and urban life in these changing times.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

Mr. ALLOTT. Mr. President, this great deliberative body voted today upon the passage of a piece of legislation which, regardless of any other names ascribed to it, will also be known, if enacted, as the Fair Labor Standards Act Amendments of 1961.

A plethora of debate has captured our attention since this bill was brought up for consideration. If one thread has woven itself throughout, it is the thread of confusion.

At the very outset were raised serious questions regarding the constitutionality of the bill. My good friend, the junior Senator from Arizona, very clearly defined the issues as did others, and brought cogent remarks to bear in addressing himself to the questions presented. The answers sought to be tendered, both in the committee report and in debate, have had unsettling rather than comforting responses, thus leaving this vital question in limbo. It would therefore appear that this administration will have the responsibility of responding to the question in the courts of our land.

Confusion did not stop there, however, for the next significant question arose: the question of this bill's effect upon the economy of the country and the labor force. No studies made, no proffered facts or figures, nothing at all has confirmed the impression many of us share—namely, that the increased coverage and inclusion can only impair the economy and further reduce the present number of employed. But again we do not know.

Retail establishments, laundries, local transportation companies, automobile dealers and a host of others may soon feel the brunt of this bill. I can well foresee laundering establishments, many of which operate on a profit base of less than 1 percent, being forced to reduce the number of their employees. Better, I say, 95 cents an hour earned

than any sum on welfare. And so with all the others directly affected by this bill.

The administration proposes to assist the employees' lot. Yet I submit the bill may ultimately serve to do otherwise. We have not the requisite assurances that this measure will provide stability with progress, nor constitutionality with enlightened legislation. In fact we have no assurances whatsoever.

The people of my State, along with those of the Nation, can only view with a measure of concern the way which lies ahead. I only hope that the New Frontier is not always so enshrouded in doubt. I, for one, would like to see the way down the garden path toward which we are being led.

Mr. MORSE. Mr. President, I join with the Senator from Minnesota [Mr. HUMPHREY] and others in paying my very high tribute to the Senator from Michigan [Mr. McNAMARA] for the brilliant and magnificent way in which he piloted the minimum wage bill through the Senate. I have served on the Senate Committee on Labor and the Subcommittee on Labor for some time. I have a very high regard for the sound liberalism and great ability of the Senator from Michigan [Mr. McNAMARA].

I wish to thank the whip, the Senator from Minnesota [Mr. HUMPHREY] for the kind words which he spoke a few moments ago. I join him in the tribute he paid, not only to the Senator from Michigan [Mr. McNAMARA], but to the majority leader, the Senator from Montana [Mr. MANSFIELD].

The President of the United States is greatly indebted to the Senator from Montana and the Senator from Michigan for the services they have rendered this administration in piloting the minimum wage bill through the Senate. We all know that if the bill had been scuttled in the manner in which it was scuttled in the other branch of Congress, one of the great planks of the Kennedy program would have been ripped out of the structure, and the legislative proposals of this administration, which form a part of the so-called New Frontier program.

I hope the President of the United States will fully appreciate the fact that it is highly to be desired, if his program is to succeed, that a working relationship be maintained between the White House and Congress. The word I used a few moments ago—"reciprocity"—is particularly applicable in connection with that relationship. But as one Democrat I wish this afternoon to express my great disappointment in the apparent lack of inclusion of the word "reciprocity" within the political dictionary of the administration to date in a great many respects.

I am very much concerned about the fact that in my opinion the President is not fully informed with regard to some of the policies which are being followed by some of his advisers in his administration. It may be a public secret, but it is not a secret within the precincts of the Senate, that there are a great many unhappy men in this body with regard to their relationship, to date, with this administration, and the senior

Senator from Oregon is one of the unhappiest.

It is not pleasant for me to have to protest, as I shall, perhaps every day now for sometime, to what I consider to be the rank injustice that the people of my State are receiving from the Kennedy administration in connection with provable economic discrimination which the administration continues to practice against my State. I am hopeful that reason will come to prevail in the councils of the administration and that this course of injustice will come to an end. When I find myself in the position of either having to remain silent in the face of injustices against my State by the administration, or speaking out in support and in the interest of the people of my State, there is no doubt what my course of action is going to be. The President, having served with me in the Senate for some years, ought to know that I will speak out in support of my State.

I shall continue to submit from time to time the evidence that supports my contention that the administration is being misadvised, apparently, in regard to the unfair treatment Oregon is receiving in connection with the expenditure of Federal dollars, in comparison with other States in my section of the country.

Mr. President, I now turn to the matter of a Post Office Department policy I believe is most ill advised.

POST OFFICE LEASE-OPTION PROGRAM

Some of the ramifications of the approval given by Congress to Public Law 426 of the 85th Congress are beginning to reveal themselves in operation of the Post Office Department.

Last summer, a constituent, Mrs. Della Paterson of Portland, directed my attention to a commercial lease arrangement entered into by the Post Office Department to provide needed postal facilities in Portland, Oreg. I wrote to the Comptroller General about it on July 28, 1960. On March 30 of this year, I got the results of the inquiry by the General Accounting Office, and I want to share them with the Congress and the public. This inquiry convinces me that substantial revision in the operation of the Post Office Department is essential.

What we have here is a budgetary policy which holds that it is better to pinch pennies today and pay rent for years to come than to invest whatever may be needed in the acquisition by the Government of needed postal facilities. What the General Accounting Office finds is that over the length of the lease, it will cost far more to lease this facility in Portland than it would have cost for the Government to have built it itself.

The Post Office Department claims that something was saved because the lease made for a smaller budgetary allotment for this purpose in its 1960 budget than direct acquisition would have made.

It even claims that such facilities are to be paid out of postal revenues, an argument which the General Accounting Office points out will require higher and higher postal rates for such arrangements as these.

It is very difficult for me to understand how any agency of our Government can commit itself to such a penny-

wise and pound-foolish policy as this one. It is difficult for me to understand how the consideration of one year's budget can take precedence over the cost of a facility over its useful life to the Government.

The position of the Post Office Department, as expressed by former Deputy Postmaster General McKibben, is the best argument I know of for a capital budget for the entire annual Federal outlay. Mr. McKibben's argument contends that we are better off to spend \$72,815,000 to have the use of this facility for 50 years by lease than to spend \$30,818,000 to have the use of it for 50 years by acquisition, simply because less would be spent at the outset under the lease than with direct acquisition.

Let me now summarize the findings and conclusions of the General Accounting Office concerning this particular lease arrangement.

I cite this summary as a specific case illustrative of the great waste the Post Office Department is going to be guilty of unless Congress reconsiders the action it took in the 85th Congress and stops this uncalled-for waste of money.

The Post Office Department as of June 30, 1960, had entered into 9,000 commercial leases and 15,000 rental agreements for postal facilities which provide the Department with about 35 and 11 percent, respectively, of its total space requirements.

In other words, the Department leases about 35 percent of its space needs, and rents about 11 percent.

The sealed-bid lease for the post office facility in Portland was awarded on June 24, 1960. It calls for annual rental of \$818,700 for a base term of 30 years. The Department also is given the option for periodic renewal of the lease up to a possible total of 70 years occupancy. The Department admits, however, that the estimated economic life of the building, based on normal maintenance practices, is about 50 years.

The lessor also included options to the Government for purchase of the facility at the end of the 30-year lease, and at the end of each renewal term. The option prices are stated in the lease. On the same day that the contract was awarded to the successful bidder, the Department obtained additional options from the successful bidder to purchase the facility at the end of the first 10 and 20 years of the lease for \$11 million and \$9 million respectively. These options were not obtained under competitive bidding nor solicited in the original invitation, but were negotiated separately.

The General Accounting Office believes the 10- and 20-year option prices are about \$2.5 million and \$2 million, respectively, more than the original cost of land and the unamortized value of the estimated cost of improvements at the end of each of these periods.

The GAO report analyzes carefully the Post Office Department's summary of the rental of \$818,700 per year. This analysis appears on page 7 of its report. The GAO points out that the 6-percent return to the lessor on his investment in land compares with the 4-percent rates at which the U.S. Treasury can borrow.

In its chapter entitled "Comparative Fund Requirements for Leasing and Direct Acquisition by the Government," the General Accounting Office declares that the fund requirements for leasing are considerably more than for direct acquisition of the facility. It points out that if the Department exercises its option to purchase at the end of 10 years, the total cost of the building to the Department would be \$20,700,000, compared to \$14,400,000 for direct acquisition now. On a 50-year basis, funds requirements under the terms of the lease would be about \$42 million more than for direct acquisition. In other words, if the Post Office exercises its option to purchase, it will pay a fixed price plus the annual rental for the length of occupancy.

The GAO finds that if it purchases the building after 10 years, it will cost \$6,279,000 more than direct acquisition now; if purchased after 20 years, \$13,105,000 more; if purchased after 30 years, \$21,606,000 more; if after 40 years, \$31,664,000 more; and if purchased after 50 years, it will cost the Government \$41,997,000 more than it would have cost to acquire the facility directly in the first place.

EXAMPLE OF WASTE IN GOVERNMENT

I am talking about only one facility, which the General Accounting Office says will cost the taxpayers \$41,997,000 more to lease it for 50 years and then buy it, than it would have cost if the Federal Government proceeded by direct acquisition now.

Some weeks ago the President of the United States asked for suggestions as to how greater economy could be accomplished in the administration of the Government. I call this example to his attention. I ask him to have his officers examine into this question. I suggest that he call the Postmaster General into his office in the very near future to discuss what I consider to be the unconscionable waste which is growing out of legislation which the 85th Congress passed.

To him, and to my Congressional colleagues, I say that that legislation ought to be changed. I shall propose that Congress have an opportunity to change it, because in my judgment such a practice cannot be justified. It is poor business practice. It is not good business, unless it is contended that it is in keeping with the free enterprise system to permit this type of privateering. In my judgment, the private enterprise system does not justify privateering, nor does it justify taking this kind of advantage of the Federal Government. I believe that when such an irrefutable report has been made by the General Accounting Office, both Congress and the President have an obligation to proceed with corrective action.

EXCESSIVE COST OF PORTLAND FACILITY

Of course, the Post Office Department holds that the postal service is supposed to be self-financing under the 1958 law. It claims that postal revenues will finance the lease arrangement because it does not call for so large an outlay as immediate acquisition would require. Says the GAO of this contention:

87TH CONGRESS
1ST SESSION

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 20, 1961

Ordered to be printed with the amendment of the Senate

AN ACT

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Fair Labor Standards
4 Amendments of 1961".

DEFINITIONS

5
6 SEC. 2. (a) Paragraph (f) of section 3 of the Fair
7 Labor Standards Act of 1938 is amended by inserting after

1 “Agricultural Marketing Act, as amended),” the following:
2 “the processing of shade-grown tobacco for use as cigar
3 wrapper tobacco by agricultural employees employed in the
4 growing and harvesting of such tobacco, which processing
5 shall include, but shall not be limited to, drying, curing,
6 fermenting, bulking, rebulking, sorting, grading, aging, and
7 baling, prior to the stemming process,” and in the case of
8 fruits and vegetables includes (1) transportation and prepa-
9 ration for transportation, whether or not performed by the
10 farmer, of the commodity from the farm to a place of first
11 processing or first marketing within the same State, (2)
12 transportation, whether or not performed by the farmer, be-
13 tween the farm and any point within the same State of per-
14 sons employed or to be employed in the harvesting of the
15 commodity.

16 (b) Paragraph (m) of section 3 of such Act, defining
17 the term “wage,” is amended by inserting before the period
18 at the end thereof a colon and the following: “*Provided,*
19 That the cost of board, lodging, or other facilities shall not
20 be included as a part of the wage paid to any employee to
21 the extent it is excluded therefrom under the terms of a bona
22 fide individual contract or collective bargaining agreement
23 applicable to the particular employee”.

24 (c) Section 3 of such Act is further amended by adding
25 at the end thereof the following new paragraphs:

1 “(p) ‘Secretary’ means the Secretary of Labor.

2 “(q) ‘Enterprise’ means the related activities performed

3 ~~(either through unified operation or common control)~~ by

4 any person or persons for a common retail business purpose,

5 and includes all such activities whether performed in one or

6 more establishments or by one or more corporate or other or-

7 ganizational units but shall not include the related activities

8 performed for such enterprise by an independent contractor:

9 *Provided, That,* within the meaning of this subsection, a local

10 retail establishment which is under independent ownership

11 and control shall not be deemed to be other than a separate

12 and distinct enterprise by reason of any arrangement, which

13 includes, but is not limited to, an agreement ~~(1)~~ that it will

14 sell, or sell only, certain goods specified by a particular

15 manufacturer, distributor, or advertiser, or ~~(2)~~ that it will

16 join with other such local establishments in the same industry

17 for the purpose of collective purchasing, or ~~(3)~~ that it will

18 have the exclusive right to sell the goods or use the brand

19 name of a manufacturer, distributor, or advertiser within a

20 specified area, or by reason of the fact that it occupies

21 premises leased to it by a person who also leases premises to

22 other retail or service establishments.

23 “(r) ‘Enterprise engaged in commerce or in the produc-

24 tion of goods for commerce’ means any enterprise which has

1 five or more retail establishments and which operates such
2 establishments in two or more States.

3 “(s) ‘Retail establishment’ shall mean an establishment
4 75 per centum of whose annual dollar volume of sales of
5 goods is not for resale and is recognized as retail sales in the
6 particular industry, but shall not include an establishment
7 which is primarily a service establishment such as (but not
8 limited to) hotels, motels, restaurants (including lunch
9 counters, cafeterias, and drive-ins), eaterers, hospitals, laun-
10 dry or drycleaning establishments, motion-picture theaters,
11 amusement or recreational establishments, parking lots,
12 beauty or barber shops, and repair shops.”

13 INVESTIGATIONS OF EFFECTS OF FOREIGN COMPETITION
14 ON EMPLOYMENT

15 SEC. 3. Section 4 of such Act is amended by adding at
16 the end thereof the following new subsection:

17 “(c) Whenever the Secretary has reason to believe that
18 in any industry under this Act the competition of foreign
19 producers in United States markets or in markets abroad,
20 or both, has resulted, or is likely to result, in increased un-
21 employment in the United States, he shall undertake an in-
22 vestigation to gain full information with respect to the matter
23 and shall make a full and complete report of his findings and
24 determinations to the President and to the Congress.”

1 SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND
2 THE VIRGIN ISLANDS

3 SEC. 4. Subsection (a) of section 5 of such Act is
4 amended by inserting, after the words "production of goods
5 for commerce" wherever they appear, the following: "or
6 employed by a retail establishment of an enterprise engaged
7 in commerce or in the production of goods for commerce".

8 MINIMUM WAGES

9 SEC. 5. (a)(1) Section 6(a) of such Act is amended
10 by inserting, after the word "who" in the portion thereof
11 preceding paragraph (1), the words "in any workweek".

12 (2) Paragraph (1) of section 6(a) of such Act is
13 amended to read as follows:

14 "(1) not less than \$1.15 an hour, except as other-
15 wise provided in this section;"

16 (3) The first sentence of paragraph (3) of section
17 6(a) of such Act is amended to read as follows:

18 "(3) if such employee is employed in American
19 Samoa, in lieu of the rates provided by this subsection or
20 subsection (b), not less than the applicable rate estab-
21 lished by the Secretary of Labor in accordance with
22 recommendations of a special industry committee or
23 committees which he shall appoint in the same manner
24 and pursuant to the same provisions as are applicable

1 to the special industry committees provided for Puerto
2 Rico and the Virgin Islands by this Act as amended
3 from time to time."

4 ~~(b)~~ Subsection ~~(b)~~ of section 6 of such Act is amended
5 to read as follows:

6 "~~(b)~~ Every employer shall pay to each of his em-
7 ployees who in any workweek ~~(i)~~ is employed by a retail
8 establishment of an enterprise engaged in commerce or in
9 the production of goods for commerce, as defined in section
10 3(r), and who, except for the enactment of the Fair
11 Labor Standards Amendments of 1961 would not be
12 within the purview of this section, or ~~(ii)~~ is brought
13 within the purview of this section by the amendments made
14 to section 13(a) of this Act by the Fair Labor Standards
15 Amendments of 1961, wages at the rate of not less than
16 \$1 an hour."

17 ~~(c)~~ Subsection ~~(c)~~ of section 6 of such Act is amended
18 by changing the period at the end thereof to a colon, and
19 adding the following: "*Provided further*, That the Seere-
20 tary shall within sixty days after the enactment of the Fair
21 Labor Standards Amendments of 1961 appoint a special
22 industry committee in accordance with section 5 to recom-
23 mend the highest minimum wage rate or rates, in accord-
24 ance with the standards prescribed by section 8, not in ex-
25 cess of the applicable rate provided by subsection ~~(b)~~, to

1 be applicable to such employee in lieu of the rate prescribed
 2 by subsection (b). The rate or rates recommended by the
 3 special industry committee shall be effective with respect
 4 to such employee upon the effective date of the wage order
 5 issued pursuant to such recommendation but not before sixty
 6 days after the effective date of the Fair Labor Standards
 7 Amendments of 1961."

8 MAXIMUM HOURS

9 SEC. 6. Subsection (a) of section 7 of such Act is
 10 amended by inserting after the word "who" the words "in
 11 any workweek".

12 WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

13 SEC. 7. (a) Section 8 of such Act is amended by insert-
 14 ing after "section 6(a)" wherever such words appear the
 15 following: "or in section 6(b), whichever may be appli-
 16 cable".

17 (b) Subsection (a) of section 8 of such Act is further
 18 amended by inserting after the word "industries" where it
 19 appears in the first sentence the words "or retail establish-
 20 ments of enterprises"; and by inserting after the words "pro-
 21 duction of goods for commerce" where they appear in the
 22 second sentence the following: "or by any retail establish-
 23 ment of an enterprise engaged in commerce or in the produc-
 24 tion of goods for commerce."

1 CHILD LABOR PROVISIONS

2 SEC. 8. Subsection ~~(c)~~ of section 12 of such Act is
3 amended by striking out the period at the end thereof and
4 inserting in lieu thereof the following: "or in any retail
5 establishment of an enterprise engaged in commerce or in the
6 production of goods for commerce."

7 EXEMPTIONS

8 SEC. 9. ~~(a)~~ Clause ~~(1)~~ of section 13(a) of such Act
9 is amended to read as follows: "~~(1)~~ any employee employed
10 in a bona fide executive, administrative, or professional
11 capacity, or in the capacity of outside salesman (as such
12 terms are defined and delimited from time to time by regu-
13 lations of the Secretary, subject to the provisions of the Ad-
14 ministrative Procedure Act, except that an employee of a re-
15 tail establishment shall not be excluded from the definition of
16 employee employed in a bona fide executive or adminis-
17 trative capacity because of the number of hours in his work-
18 week which he devotes to activities not directly or closely
19 related to the performance of executive or administrative
20 activities, if less than 40 per centum of his hours worked in
21 the workweek are devoted to such activities); or".

22 ~~(b)~~ Clause ~~(2)~~ of section 13(a) of such Act is
23 amended to read as follows: "~~(2)~~ any employee employed
24 by any retail or service establishment (except a retail estab-
25 lishment in an enterprise engaged in commerce or in the pro-

duction of goods for commerce, other than such a retail establishment which has an annual dollar volume of sales (exclusive of excise taxes at the retail level which are separately stated) of less than \$250,000), more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located. A retail or service establishment shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or".

(c) Clause (13) of section 13(a) of such Act is amended to read as follows: "(13) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or".

(d) Section 13(a) of such Act is amended by changing the period at the end thereof to a semicolon and adding the following: "or (16) any employee employed by a retail

1 establishment who is employed in connection with a lunch
2 counter, restaurant, or cafeteria in such establishment; or
3 ~~(17)~~ any employee of a retail gasoline establishment; or
4 ~~(18)~~ any employee of an establishment which is primarily
5 engaged in the business of selling automobiles, trucks, or
6 farm implements.”

7 ~~(e)~~ Section ~~13(b)~~ of such Act is amended by changing
8 the period at the end thereof to a semicolon and adding the
9 following: “or ~~(6)~~ any employee employed as an announcer,
10 news editor, or chief engineer by a radio or television station
11 the major studio of which is located in a city or town of one
12 hundred thousand population or less, according to the latest
13 available decennial census figures as compiled by the United
14 States Bureau of Census, except where such city or town
15 is part of a standard metropolitan area as defined and desig-
16 nated by the Bureau of Census, which has a total population
17 in excess of one hundred thousand; or ~~(7)~~ any employee em-
18 ployed by a retail establishment of an enterprise engaged in
19 commerce or in the production of goods for commerce whose
20 minimum rate of wages is governed by section ~~6(b)~~ of this
21 Act; or ~~(8)~~ any employee employed in a bona fide local
22 retailing capacity (as such term is defined and delimited from
23 time to time by regulations of the Secretary, subject to the
24 provisions of the Administrative Procedure Act).”

EMPLOYMENT OF STUDENTS

SEC. 10. Clause (1) of section 14 of such Act is amended by striking out "and" after "apprentices," and by inserting after "messages", the following: "and of full-time students outside of their school hours,".

STUDY TO SIMPLIFY AND REMOVE INEQUITIES IN AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS

SEC. 11. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(b)(3), 7(c), and 13(a)(10), and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data, and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

EFFECTIVE DATE

SEC. 12. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and

1 amendments thereto, including amendments made by this
2 Act, may be exercised by the Secretary on and after the
3 date of enactment of this Act.

4 That this Act may be cited as the "Fair Labor Standards
5 Amendments of 1961".

6 DEFINITIONS

7 SEC. 2. (a) Paragraph (m) of section 3 of the Fair
8 Labor Standards Act of 1938, as amended, defining the
9 term "wage", is amended by inserting before the period at
10 the end thereof a colon and the following: "Provided, That
11 the cost of board, lodging, or other facilities shall not be in-
12 cluded as a part of the wage paid to any employee to the
13 extent it is excluded therefrom under the terms of a bona
14 fide collective-bargaining agreement applicable to the par-
15 ticular employee: Provided further, That the Secretary is
16 authorized to determine the fair value of such board, lodging,
17 or other facilities for defined classes of employees and in
18 defined areas, based on average cost to the employer or to
19 groups of employers similarly situated, or average value to
20 groups of employees, or other appropriate measures of fair
21 value. Such evaluations, where applicable and pertinent,
22 shall be used in lieu of actual measure of cost in determining
23 the wage paid to any employee".

24 (b) Section 3 of such Act is further amended by adding
25 at the end thereof the following new paragraphs:

1 “(p) ‘American vessel’ includes any vessel which is doc-
2 umented or numbered under the laws of the United States. :

3 “(q) ‘Secretary’ means the Secretary of Labor.

4 “(r) ‘Enterprise’ means the related activities performed
5 (either through unified operation or common control) by any
6 person or persons for a common business purpose, and in-
7 cludes all such activities whether performed in one or more
8 establishments or by one or more corporate or other organi-
9 zational units including departments of an establishment
10 operated through leasing arrangements, but shall not include
11 the related activities performed for such enterprise by an in-
12 dependent contractor: Provided, That, within the meaning of
13 this subsection, a retail or service establishment which is
14 under independent ownership shall not be deemed to be so
15 operated or controlled as to be other than a separate and dis-
16 tinct enterprise by reason of any arrangement, which includes,
17 but is not necessarily limited to, an agreement, (1) that it will
18 sell, or sell only, certain goods specified by a particular manu-
19 facturer, distributor, or advertiser, or (2) that it will join
20 with other such establishments in the same industry for
21 the purpose of collective purchasing, or (3) that it will have
22 the exclusive right to sell the goods or use the brand name of a
23 manufacturer, distributor, or advertiser within a specified
24 area, or by reason of the fact that it occupies premises leased

1 to it by a person who also leases premises to other retail or
2 service establishments.

3 “(s) ‘Enterprise engaged in commerce or in the pro-
4 duction of goods for commerce’ means any of the following
5 in the activities of which employees are so engaged, in-
6 cluding employees handling, selling, or otherwise working
7 on goods that have been moved in or produced for commerce
8 by any person:

9 “(1) any such enterprise which has one or more
10 retail or service establishments if the annual gross vol-
11 ume of sales of such enterprise is not less than \$1,000,-
12 000, exclusive of excise taxes at the retail level which
13 are separately stated and if such enterprise purchases or
14 receives goods for resale that move or have moved across
15 State lines (not in deliveries from the reselling establish-
16 ment) which amount in total annual volume to \$250,-
17 000 or more;

18 “(2) any such enterprise which has one or more
19 establishments engaged in laundering, cleaning, or ré-
20 pairing clothing or fabrics if the annual gross volume of
21 sales of such enterprise is not less than \$1,000,000, ex-
22 clusive of excise taxes at the retail level which are sepá-
23 rately stated;

24 “(3) any such enterprise which is engaged in the
25 business of operating a street, suburban or interurban

1 *electric railway, or local trolley or motorbus carrier;*

2 *“(4) any establishment of any such enterprise,*
3 *except establishments and enterprises referred to in*
4 *other paragraphs of this subsection, which has em-*
5 *ployees engaged in commerce or in the production of*
6 *goods for commerce if the annual gross volume of sales*
7 *of such enterprise is not less than \$1,000,000;*

8 *“(5) any such enterprise which is engaged in the*
9 *business of construction or reconstruction, or both, if the*
10 *annual gross volume from the business of such enter-*
11 *prise is not less than \$350,000;*

12 *“(6) any gasoline service establishment if the*
13 *annual gross volume of sales of such establishment is not*
14 *less than \$250,000, exclusive of excise taxes at the retail*
15 *level which are separately stated:*

16 *Provided, That an establishment shall not be considered to be*
17 *an enterprise engaged in commerce or in the production of*
18 *goods for commerce, or a part of an enterprise engaged in*
19 *commerce or in the production of goods for commerce, and*
20 *the sales of such establishment shall not be included for the*
21 *purpose of determining the annual gross volume of sales of*
22 *any enterprise for the purpose of this subsection, if the only*
23 *employees of such establishment are the owner thereof or*
24 *persons standing in the relationship of parent, spouse, or*
25 *child of such owner.’’*

1 INVESTIGATIONS OF EFFECTS ON EMPLOYMENT OF
2 FOREIGN COMPETITION

3 *SEC. 3. Section 4 of such Act is amended by adding at*
4 *the end thereof the following new subsection:*

5 “(e) Whenever the Secretary has reason to believe that
6 in any industry under this Act the competition of foreign
7 producers in United States markets or in markets abroad, or
8 both, has resulted or is likely to result, in increased unem-
9 ployment in the United States, he shall undertake an in-
10 vestigation to gain full information with respect to the matter.
11 If he determines such increased unemployment has in fact
12 resulted, or is in fact likely to result, from such competition,
13 he shall make a full and complete report of his findings and
14 determinations to the President and to the Congress: Pro-
15 vided, That he may also include in such report information
16 on the increased employment resulting from additional ex-
17 ports in any industry under this Act as he may determine to
18 be pertinent to such report.”

19 SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND
20 THE VIRGIN ISLANDS

21 *SEC. 4. Subsection (a) of section 5 of such Act is*
22 *amended by inserting after the words “production of goods*
23 *for commerce” wherever they appear, the following: “or*

1 employed in any enterprise engaged in commerce or in the
2 production of goods for commerce”.

3 MINIMUM WAGES

4 SEC. 5. (a)(1) Section 6(a) of such Act is amended
5 by inserting after the word “who” in the portion thereof pre-
6 ceding paragraph (1), the words “in any workweek”.

7 (2) Paragraph (1) of section 6(a) of such Act is
8 amended to read as follows:

9 “(1) not less than \$1.15 an hour during the first
10 two years from the effective date of the Fair Labor
11 Standards Amendments of 1961, and not less than
12 \$1.25 an hour thereafter, except as otherwise provided in
13 this section.”

14 (3) The first sentence of paragraph (3) of section
15 6(a) of such Act is amended to read as follows:

16 “(3) if such employee is employed in American
17 Samoa, in lieu of the rate or rates provided by this
18 subsection or subsection (b), not less than the appli-
19 cable rate established by the Secretary of Labor in ac-
20 cordance with recommendations of a special industry
21 committee or committees which he shall appoint in the
22 same manner and pursuant to the same provisions as

1 are applicable to the special industry committees pro-
2 vided for Puerto Rico and the Virgin Islands by this
3 Act as amended from time to time.”

4 (b) Subsection (b) of section 6 of such Act is amended
5 to read as follows:

6 “(b) Every employer shall pay to each of his employees
7 who in any workweek (i) is employed in an enterprise en-
8 gaged in commerce or in the production of goods for com-
9 merce, as defined in section 3(s), (1), (2), (3), or (5)
10 or by an establishment described in section 3(s) (4) or
11 (6), and who, except for the enactment of the Fair Labor
12 Standards Amendments of 1961, would not be within the
13 purview of this section, or (ii) is brought within the pur-
14 view of this section by the amendments made to section
15 13(a) of this Act by the Fair Labor Standards Amend-
16 ments of 1961, wages at rates—

17 “(1) not less than \$1 an hour during the first year
18 from the effective date of such amendments; not less
19 than \$1.05 an hour during the second year from such
20 date; not less than \$1.15 an hour during the third year
21 from such date; and not less than the rate effective under
22 paragraph (1) of subsection (a) thereafter;

23 “(2) if such employee is employed as a seaman
24 on an American vessel, not less than the rate which will
25 provide to the employee, for the period covered by the

1 *wage payment, wages equal to compensation at the hourly*
2 *rate prescribed by paragraph (1) of this subsection for*
3 *all hours during such period when he was actually on*
4 *duty (including periods aboard ship when the employee*
5 *was on watch or was, at the direction of a superior officer,*
6 *performing work or standing by, but not including off-*
7 *duty periods which are provided pursuant to the employ-*
8 *ment agreement)."*

9 *(c) Subsection (c) of section 6 of such Act is amended*
10 *to read as follows:*

11 *"(c) The rate or rates provided by subsections (a)*
12 *and (b) of this section shall be superseded in the case of*
13 *any employee in Puerto Rico or the Virgin Islands only*
14 *for so long as and insofar as such employee is covered by*
15 *a wage order heretofore or hereafter issued by the Secretary*
16 *pursuant to the recommendations of a special industry com-*
17 *mittee appointed pursuant to section 5: Provided, That (1)*
18 *the following rates shall apply to any such employee to*
19 *whom the rate or rates prescribed by subsection (a) would*
20 *otherwise apply:*

21 *"(A) The rate or rates applicable under the most re-*
22 *cent wage order issued by the Secretary prior to the effec-*
23 *tive date of the Fair Labor Standards Amendments of 1961,*
24 *increased by 15 per centum, unless such rate or rates are*
25 *superseded by the rate or rates prescribed in a wage order*

1 issued by the Secretary pursuant to the recommendations of
2 a review committee appointed under paragraph (C). Such
3 rate or rates shall become effective sixty days after the effec-
4 tive date of the Fair Labor Standards Amendments of 1961
5 or one year from the effective date of the most recent wage
6 order applicable to such employee theretofore issued by the
7 Secretary pursuant to the recommendations of a special in-
8 dustry committee appointed under section 5, whichever is
9 later.

10 “(B) Beginning two years after the applicable effec-
11 tive date under paragraph (A), not less than the rate or
12 rates prescribed by paragraph (A), increased by an amount
13 equal to 10 per centum of the rate or rates applicable under
14 the most recent wage order issued by the Secretary prior
15 to the effective date of the Fair Labor Standards Amend-
16 ments of 1961, unless such rate or rates are superseded by
17 the rate or rates prescribed in a wage order issued by the
18 Secretary pursuant to the recommendations of a review com-
19 mittee appointed under paragraph (C).

20 “(C) Any employer, or group of employers, employ-
21 ing a majority of the employees in an industry in Puerto
22 Rico or the Virgin Islands, may apply to the Secretary in
23 writing for the appointment of a review committee to
24 recommend the minimum rate or rates to be paid such em-
25 ployees in lieu of the rate or rates provided by paragraph

1 (A) or (B). Any such application with respect to any
2 rate or rates provided for under paragraph (A) shall be
3 filed within sixty days following the enactment of the Fair
4 Labor Standards Amendments of 1961 and any such ap-
5 plication with respect to any rate or rates provided for
6 under paragraph (B) shall be filed not more than one
7 hundred and twenty days and not less than sixty days prior
8 to the effective date of the applicable rate or rates under
9 paragraph (B). The Secretary shall promptly consider
10 such application and may appoint a review committee
11 if he has reasonable cause to believe, on the basis of financial
12 and other information contained in the application, that
13 compliance with any applicable rate or rates prescribed by
14 paragraph (A) or (B) will substantially curtail employ-
15 ment in such industry. The Secretary's decision upon any
16 such application shall be final. Any wage order issued pur-
17 suant to the recommendations of a review committee ap-
18 pointed under this paragraph shall take effect on the ap-
19 plicable effective date provided in paragraph (A) or (B).

20 “(D) In the event a wage order has not been issued
21 pursuant to the recommendation of a review committee prior
22 to the applicable effective date under paragraph (A) or
23 (B), the applicable percentage increase provided by any such
24 paragraph shall take effect on the effective date prescribed

1 therein, except with respect to the employees of an employer
2 who filed an application under paragraph (C) and who
3 files with the Secretary an undertaking with a surety or
4 sureties satisfactory to the Secretary for payment to his
5 employees of an amount sufficient to compensate such em-
6 ployees for the difference between the wages they actually
7 receive and the wages to which they are entitled under this
8 subsection. The Secretary shall be empowered to enforce
9 such undertaking and any sums recovered by him shall be
10 held in a special deposit account and shall be paid, on order
11 of the Secretary, directly to the employee or employees af-
12 fected. Any such sum not paid to an employee because of
13 inability to do so within a period of three years shall be cov-
14 ered into the Treasury of the United States as miscellaneous
15 receipts.

16 “(2) In the case of any such employee to whom subsec-
17 tion (b) would otherwise apply, the Secretary shall within
18 sixty days after the enactment of the Fair Labor Standards
19 Amendments of 1961 appoint a special industry committee
20 in accordance with section 5 to recommend the highest mini-
21 mum wage rate or rates in accordance with the standards
22 prescribed by section 8, not in excess of the applicable rate
23 provided by subsection (b), to be applicable to such em-
24 ployee in lieu of the rate or rates prescribed by subsection
25 (b). The rate or rates recommended by the special indus-

1 try committee shall be effective with respect to such em-
2 ployee upon the effective date of the wage order issued
3 pursuant to such recommendation but not before sixty days
4 after the effective date of the Fair Labor Standards Amend-
5 ments of 1961.

6 “(3) The provisions of section 5 and section 8, relating
7 to special industry committees, shall be applicable to review
8 committees appointed under this subsection. The appoint-
9 ment of a review committee shall be in addition to and not
10 in lieu of any special industry committee required to be
11 appointed pursuant to the provisions of subsection (a) of
12 section 8, except that no special industry committee shall
13 hold any hearing within one year after a minimum wage
14 rate or rates for such industry shall have been recommended
15 to the Secretary by a review committee to be paid in lieu
16 of the rate or rates provided for under paragraph (A) or
17 (B). The minimum wage rate or rates prescribed by this
18 subsection shall be in effect only for so long as and insofar as
19 such minimum wage rate or rates have not been superseded
20 by a wage order fixing a higher minimum wage rate or rates
21 (but not in excess of the applicable rate prescribed in sub-
22 section (a) or subsection (b)) hereafter issued by the Sec-
23 retary pursuant to the recommendation of a special industry
24 committee.”

MAXIMUM HOURS

1
2 *SEC. 6. (a) Subsection (a) of section 7 of such Act*
3 *is amended by designating such subsection as subsection*
4 *(a)(1), by inserting after the word "who" the words "in*
5 *any workweek", and by striking out the period at the end*
6 *thereof and inserting a semicolon and the word "and" in lieu*
7 *thereof and adding the following new paragraph (2):*

8 *"(2) No employer shall employ any of his employees*
9 *who in any workweek (i) is employed in an enterprise*
10 *engaged in commerce or in the production of goods for*
11 *commerce, as defined in section 3(s)(1), (2), or (5),*
12 *or by an establishment described in section 3(s) (4), and*
13 *who, except for the enactment of the Fair Labor Standards*
14 *Amendments of 1961, would not be within the purview of*
15 *this subsection, or (ii) is brought within the purview of this*
16 *subsection by the amendments made to section 13 of this*
17 *Act by the Fair Labor Standards Amendments of 1961—*

18 *"(A) for a workweek longer than forty-four hours*
19 *during the second year from the effective date of the*
20 *Fair Labor Standards Amendments of 1961,*

21 *"(B) for a workweek longer than forty-two hours*
22 *during the third year from such date,*

23 *"(C) for a workweek longer than forty hours after*
24 *the expiration of the third year from such date,*
25 *unless such employee receives compensation for his employ-*

1 *ment in excess of the hours above specified at a rate not less*
2 *than one and one-half times the regular rate at which he is*
3 *employed.’’*

4 *(b) Subsection (b) of section 7 of such Act is amended*
5 *by striking out “in excess of forty hours in the workweek”*
6 *in paragraph (2) and inserting in lieu thereof the following:*
7 *“in excess of the maximum workweek applicable to such em-*
8 *ployee under subsection (a)”.*

9 *(c) Paragraph (5) of subsection (d) of section 7 of*
10 *such Act is amended by striking out “forty in a workweek”*
11 *and inserting in lieu thereof the following: “in excess of the*
12 *maximum workweek applicable to such employee under*
13 *subsection (a)”.*

14 *(d) Paragraph (7) of subsection (d) of section 7 of*
15 *such Act is amended by striking out “forty hours” and*
16 *inserting in lieu thereof the following: “the maximum work-*
17 *week applicable to such employee under subsection (a)”.*

18 *(e) Subsection (e) of section 7 of such Act is amended*
19 *(1) by striking out “forty hours” and inserting in lieu*
20 *thereof “the maximum workweek applicable to such em-*
21 *ployee under subsection (a)”, (2) by striking out “section*
22 *6(a)” and inserting in lieu thereof “subsection (a) or (b)*
23 *of section 6 (whichever may be applicable)”, and (3) by*
24 *striking out “forty in any” and inserting in lieu thereof*
25 *“such maximum”.*

1 (f) Subsection (f) of section 7 of such Act is amended
2 by striking out "forty hours" both times it appears therein
3 and inserting in lieu thereof the following: "the maximum
4 workweek applicable to such employee under such subsec-
5 tion".

6 (g) Section 7 of such Act is amended by adding at the
7 end thereof the following new subsection:

8 "(h) No employer shall be deemed to have violated
9 subsection (a) by employing any employee of a retail or
10 service establishment for a workweek in excess of the ap-
11 plicable workweek specified therein, if (1) the regular rate
12 of pay of such employee is in excess of one and one-half times
13 the minimum hourly rate applicable to him under section
14 6, and (2) more than half his compensation for a repre-
15 sentative period (not less than one month) represents com-
16 missions on goods or services."

17 WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

18 SEC. 7. Subsection (a) of section 8 of such Act is
19 amended by inserting after the word "industries" where it
20 appears in the first sentence the words "or enterprises"; And
21 by inserting after the words "production of goods for com-
22 merce" where they appear in the second sentence the follow-
23 ing: "or in any enterprise engaged in commerce or in the
24 production of goods for commerce".

CHILD LABOR PROVISIONS

SEC. 8. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "or in any enterprise engaged in commerce or in the production of goods for commerce."

EXEMPTIONS

SEC. 9. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

"(a) The provisions of sections 6 and 7 shall not apply with respect to—

"(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than

1 40 per centum of his hours worked in the workweek are
2 devoted to such activities); or

3 “(2) any employee employed by any retail or
4 service establishment, more than 50 per centum of
5 which establishment’s annual dollar volume of sales of
6 goods or services is made within the State in which the
7 establishment is located, if such establishment—

8 “(i) is not in an enterprise described in sec-
9 tion 3(s), or

10 “(ii) is in such an enterprise and is a hotel,
11 motel, restaurant, or motion picture theater; or is an
12 amusement or recreational establishment that oper-
13 ates on a seasonal basis, or

14 “(iii) is in such an enterprise and is a hospital,
15 or an institution which is primarily engaged in the
16 care of the sick, the aged, the mentally ill or defec-
17 tive, residing on the premises of such institution, or
18 a school for physically or mentally handicapped or
19 gifted children, or

20 “(iv) is in such an enterprise and has an an-
21 nual dollar volume of sales (exclusive of excise
22 taxes at the retail level which are separately stated)
23 which is less than \$250,000.

24 A ‘retail or service establishment’ shall mean an estab-
25 lishment 75 per centum of whose annual dollar volume

1 of sales of goods or services (or of both) is not for
2 resale and is recognized as retail sales or services in
3 the particular industry; or

4 “(3) any employee employed by any establishment
5 (except an establishment in an enterprise described in
6 section 3(s)(2)) engaged in laundering, cleaning, or
7 repairing clothing or fabrics, more than 50 per centum
8 of which establishment's annual dollar volume of sales
9 of such services is made within the State in which the
10 establishment is located: Provided, That 75 per centum
11 of such establishment's annual dollar volume of sales of
12 such services is made to customers who are not engaged
13 in a mining, manufacturing, transportation, commercial,
14 or communications business: Provided further, That
15 neither the exemption in this paragraph nor in paragraph
16 (2) shall apply to any employee of a hotel, motel, or
17 restaurant who is engaged in laundering, cleaning, or
18 repairing clothing or fabrics where such services are not
19 performed exclusively for such hotel, motel, or restau-
20 rant: Provided further, That this exemption shall not
21 apply to any employee of any such establishment which
22 has an annual dollar volume of sales of such services
23 of \$250,000 or more and which is engaged in substantial
24 competition in the same metropolitan area with an estab-
25 lishment less than 50 per centum of whose annual dollar

1 *volume of sales of such services is made within the State*
2 *in which it is located; or*

3 “(4) any employee employed by an establishment
4 *which qualifies as an exempt retail establishment under*
5 *clause (2) of this subsection and is recognized as a re-*
6 *tail establishment in the particular industry notwith-*
7 *standing that such establishment makes or processes at*
8 *the retail establishment the goods that it sells: Provided,*
9 *That more than 85 per centum of such establishment's*
10 *annual dollar volume of sales of goods so made or proc-*
11 *essed is made within the State in which the establish-*
12 *ment is located; or*

13 “(5) any employee employed in the catching, tak-
14 *ing, propagating, harvesting, cultivating, or farming of*
15 *any kind of fish, shellfish, crustacea, sponges, seaweeds,*
16 *or other aquatic forms of animal and vegetable life, or in*
17 *the first processing, canning or packing such marine*
18 *products at sea as an incident to, or in conjunction with,*
19 *such fishing operations, including the going to and re-*
20 *turning from work and loading and unloading when per-*
21 *formed by any such employee; or*

22 “(6) any employee employed in agriculture or in
23 *connection with the operation or maintenance of ditches.*
24 *canals, reservoirs, or waterways, not owned or operated*
25 *for profit, or operated on a share-crop basis, and which*

are used exclusively for supply and storing of water for agricultural purposes; or

“(7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or

“(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where printed and published or counties contiguous thereto; or

“(9) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or

“(10) any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or

1 “(11) any switchboard operator employed by an
2 independently owned public telephone company which
3 has not more than seven hundred and fifty stations; or

4 “(12) any employee of an employer engaged in
5 the business of operating taxicabs; or

6 “(13) any employee or proprietor in a retail or
7 service establishment which qualifies as an exempt re-
8 tail or service establishment under clause (2) of this
9 subsection with respect to whom the provisions of sec-
10 tions 6 and 7 would not otherwise apply, engaged in
11 handling telegraphic messages for the public under an
12 agency or contract arrangement with a telegraph com-
13 pany where the telegraph message revenue of such
14 agency does not exceed \$500 a month; or

15 “(14) any employee employed as a seaman on a
16 vessel other than an American vessel; or

17 “(15) any employee employed in planting or tend-
18 ing trees, cruising, surveying, or felling timber, or in
19 preparing or transporting logs or other forestry products
20 to the mill, processing plant, railroad, or other trans-
21 portation terminal, if the number of employees employed
22 by his employer in such forestry or lumbering opera-
23 tions does not exceed twelve; or

24 “(16) any employee with respect to his employment

1 *in agriculture by a farmer, notwithstanding other em-*
2 *ployment of such employee in connection with livestock*
3 *auction operations in which such farmer is engaged as*
4 *an adjunct to the raising of livestock, either on his own*
5 *account or in conjunction with other farmers, if such em-*
6 *ployee (1) is primarily employed during his workweek*
7 *in agriculture by such farmer, and (2) is paid for his*
8 *employment in connection with such livestock auction*
9 *operations at a wage rate not less than that prescribed by*
10 *section 6(a)(1); or*

11 *“(17) any employee employed within the area of*
12 *production (as defined by the Secretary) by an estab-*
13 *lishment commonly recognized as a country elevator,*
14 *including such an establishment which sells products and*
15 *services used in the operation of a farm: Provided, That*
16 *no more than five employees are employed in the estab-*
17 *lishment in such operations; or*

18 *“(18) any employee engaged in ginning of cotton*
19 *for market, in any place of employment located in a*
20 *county where cotton is grown in commercial quantities.*

21 *“(b) The provisions of section 7 shall not apply with*
22 *respect to—*

23 *“(1) any employee with respect to whom the In-*
24 *terstate Commerce Commission has power to establish*

1 *qualifications and maximum hours of service pursuant*
2 *to the provisions of section 204 of the Motor Carrier*
3 *Act, 1935; or*

4 “(2) *any employee of an employer subject to the*
5 *provisions of part I of the Interstate Commerce Act; or*

6 “(3) *any employee of a carrier by air subject to*
7 *the provisions of title II of the Railway Labor Act;*
8 *or*

9 “(4) *any employee employed in the canning, proc-*
10 *essing, marketing, freezing, curing, storing, packing*
11 *for shipment, or distributing of any kind of fish, shell-*
12 *fish, or other aquatic forms of animal or vegetable life,*
13 *or any byproduct thereof; or*

14 “(5) *any individual employed as an outside buyer*
15 *of poultry, eggs, cream, or milk, in their raw or natural*
16 *state; or*

17 “(6) *any employee employed as a seaman; or*

18 “(7) *any employee of a street, suburban, or inter-*
19 *urban electric railway, or local trolley or motorbus*
20 *carrier, not included in other exemptions contained in*
21 *this section; or*

22 “(8) *any employee of a gasoline service station; or*

23 “(9) *any employee employed as an announcer,*
24 *news editor, or chief engineer by a radio or television*

1 station having its major studio in a city or town which
2 has a population of not more than fifty thousand, ac-
3 cording to the latest available decennial census figures as
4 compiled by the Bureau of the Census, if such city or
5 town is not part of a standard metropolitan statistical
6 area (as defined and designated by the Bureau of the
7 Budget) having a total population in excess of fifty
8 thousand, or if such city is a part of such an area but
9 has a population of not more than twenty-five thousand
10 and such station's major studio is at least forty airline
11 miles from the principal city in such area; or

12 “(10) any employee of an independently owned
13 and controlled local enterprise (including an enterprise
14 with more than one bulk storage establishment) engaged
15 in the wholesale or bulk distribution of petroleum prod-
16 ucts if (A) the annual gross volume of sales of such
17 enterprise is not more than \$1,000,000 exclusive of ex-
18 cise taxes, and (B) more than 75 per centum of such
19 enterprise's annual dollar volume of sales is made within
20 the State in which such enterprise is located, and (C)
21 not more than 25 per centum of the annual dollar
22 volume of sales of such enterprise is to customers who
23 are engaged in the bulk distribution of such products
24 for resale; or

1 “(11) any employee of a retail or service establish-
2 ment primarily engaged in the business of selling auto-
3 mobiles, trucks, or farm implements; or

4 “(12) any employee employed as a driver or
5 driver’s helper making local deliveries, who is compen-
6 sated for such employment on the basis of trip rates, or
7 other delivery payment plan, if the Secretary shall find
8 that such plan has the general purpose and effect of re-
9 ducing hours worked by such employees to, or below, the
10 maximum workweek applicable to them under section
11 7(a).”

12 *SEC. 10. That section 13(d) of such Act, as amended,*
13 *is amended by inserting before the period at the end thereof the*
14 *following: "or to any homemaker engaged in the making of*
15 *wreaths composed principally of natural holly, pine, cedar,*
16 *or other evergreens (including the harvesting of the evergreens*
17 *or other forest products used in making such wreaths)".*

18 *EMPLOYMENT OF STUDENTS*

19 SEC. 11. Clause (1) of section 14 of such Act is
20 amended by striking out “and” after “apprentices,” and
21 by inserting after “messages,” the following: “and of full-
22 time students outside of their school hours in any retail
23 or service establishment: Provided, That such employment
24 is not of the type ordinarily given to a full-time employee,”.

PENALTIES AND INJUNCTION PROCEEDINGS

SEC. 12. (a) Section 16(b) of such Act is amended by adding at the end thereof a new sentence as follows: "The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection."

(b) Section 17 of such Act is amended to read as follows: •

"INJUNCTION PROCEEDINGS

"SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15(a)(2) the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this Act

1 *(except sums which employees are barred from recovering,*
 2 *at the time of the commencement of the action to restrain*
 3 *the violations, by virtue of the provisions of section 6 of the*
 4 *Portal-to-Portal Act of 1947)."*

5 *STUDY OF AGRICULTURAL HANDLING AND PROCESSING*
 6 *EXEMPTIONS AND RATES OF PAY IN HOTELS, MOTELS,*
 7 *RESTAURANTS, AND OTHER FOOD SERVICE ENTER-*
 8 *PRISES*

9 *SEC. 13. The Secretary of Labor shall study the com-*
 10 *plicated system of exemptions now available for the han-*
 11 *dling and processing of agricultural products under such Act*
 12 *and particularly sections 7(c), 13(a)(10) and 7(b)(3),*
 13 *and the complex problems involving rates of pay of em-*
 14 *ployees in hotels, motels, restaurants, and other food service*
 15 *enterprises who are exempted from the provisions of this Act*
 16 *and shall submit to the second session of the Eighty-seventh*
 17 *Congress at the time of his report under section 4(d) of*
 18 *such Act a special report containing the results of such study*
 19 *and information, data and recommendations for further leg-*
 20 *islation designed to simplify and remove the inequities in the*
 21 *application of such exemptions.*

22 *EFFECTIVE DATE*

23 *SEC. 14. The amendments made by this Act shall take*
 24 *effect upon the expiration of one hundred and twenty days*
 25 *after the date of its enactment, except as otherwise provided*

1 in such amendments and except that the authority to promul-
2 gate necessary rules, regulations, or orders with regard to
3 amendments made by this Act, under the Fair Labor Stand-
4 ards Act of 1938 and amendments thereto, including amend-
5 ments made by this Act, may be exercised by the Secretary
6 on and after the date of enactment of this Act.

Passed the House of Representatives March 24, 1961.

Attest:

RALPH R. ROBERTS,
Clerk.

Passed the Senate with an amendment April 20, 1961.

Attest:

FELTON M. JOHNSTON,
Secretary.

AN ACT

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 1961

Ordered to be printed with the amendment of the
Senate

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

CONTENTS

Issued April 25, 1961
For actions of April 24, 1961
87th-1st, No. 63

Adjournment.....	10		
ASC committees.....	13		
Assistant Secretary.....	23		
Civil defense.....	5		
Corn.....	11		
Depressed areas.....	17		
Electrification.....	14		
FAO.....	3		
Farm labor.....	12		
Farm program.....	11, 13		
Feed grains.....	11	Minerals.....	21, 25
Foreign trade.....	1, 9	Minimum wage.....	7
Forestry.....	6	Peace Corps.....	16
Housing.....	3	Personnel.....	24
Lands.....	13, 21	Price supports.....	13
Livestock loans.....	20	Public Law 480.....	1
Milk sanitation.....	4	Recreation.....	19
		Research.....	24
		Stockpiling.....	2
		Surplus commodities.....	1
		Textiles.....	15
		Transportation.....	22
		Veterans' benefits.....	26
		Wilderness.....	6

HIGHLIGHTS: Senate passed bill to provide additional authorization for Public Law 480. House committee reported bill to extend Mexican farm labor program. Several Representatives debated Administration farm program. Sen. Moss and Reps. King, Utah, and Peterson introduced, and Sen. Moss discussed bill to provide for emergency livestock loans.

SENATE

1. **SURPLUS COMMODITIES; FOREIGN TRADE.** Passed without amendment S. 1027, to amend Public Law 480 so as to provide an additional authorization of \$2 billion during 1961 under title I for sales of surplus commodities for foreign currencies (pp. 6170-4). The report of the Agriculture and Forestry Committee includes the following statements regarding administration of this program:

"USE OF FOREIGN CURRENCIES

"The committee is concerned with unbusinesslike practices and procedures which are being followed in the operation of the Public Law 480 program and particularly in the acquisition and use of foreign currencies generated by title I of such program.

"Pending further study of the program incident to consideration of the renewal of the Public Law 480 program, it is strongly recommended that all steps possible be taken to correct these practices which result in the loss of vast amounts of money by the United States. These practices include:

"1. Unrealistic exchange rates negotiated with participating countries. ***

"2. Failure to report losses resulting from unrealistic exchange rates. ***

"3. Substantial amounts of currency are lying idle. ***

"4. Division of currencies is tug-of-war. ***

"The committee feels that the interdepartmental committee should exercise greater prudence in setting aside the portions of sales proceeds to be used for various purposes specified in the act. The committee is well aware, of course, that the amount of currencies made available to the foreign country is an important consideration in the title I agreement. On the other hand, the committee believes that the United States should make maximum use of these foreign currencies where they can be used for appropriate U. S. agency programs.

"BARTER

"The committee feels that whenever the opportunity presents itself to dispose of additional surplus agricultural commodities in exchange for materials of which the United States does not domestically produce its requirements, such as wheat for sugar from India, such opportunity should be fully explored and such exchange should be made if it is in the best interest of the United States and meets the other requirements of section 303 of Public Law 480."

2. STOCKPILING. Both Houses received from OCDM the semiannual report on the strategic and critical materials stockpiling program. pp. 6148, 6235
3. FOOD AND AGRICULTURE ORGANIZATION. Both Houses received from the State Department a proposed bill "to amend the joint resolution providing for membership of the United States in the Food and Agriculture Organization of the United Nations"; to S. Foreign Relations and H. Foreign Affairs Committees. pp. 6148, 6236
4. MILK SANITATION STANDARDS. Sen. Wiley urged enactment of legislation to establish more uniform sanitation standards for the interstate shipment of milk and inserted a Wisc. Legislature resolution favoring enactment of such legislation. p. 6151
5. CIVIL DEFENSE. Sen. Symington inserted a statement prepared by Sen. Young, O., criticizing the civil defense program. pp. 6161-2
6. FORESTRY. Sen. Anderson inserted and commended excerpts from a magazine article favoring enactment of legislation to provide for the preservation of wilderness areas. pp. 6168-9
7. MINIMUM WAGE. Conferees were appointed in both Houses on H. R. 3935, the minimum wage bill. pp. 6193, 6225
8. HOUSING. Sen. Humphrey urged enactment of the President's proposal to establish a Department of Urban Affairs and Housing and inserted the letter from the President submitting a draft of the proposed legislation, a sectional analysis of the proposed bill, and a letter from the Director of the Budget Bureau describing the proposal in detail. pp. 6202-5

INSPECTION OF VESSEL COMMUNICATIONS EQUIPMENT

Mr. GORE. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 153, S. 1288. The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 1288), to amend section 362(f) of the Communications Act of 1934.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. GORE. Mr. President, I ask unanimous consent to have a statement in explanation of the bill printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

Section 362(b) of the Communications Act of 1934, as amended (title III, pt. II), requires that every U.S.-flag vessel subject to its provisions must have its prescribed communications equipment and apparatus (i.e., radio installation, radiotelegraph, etc.) inspected at least once each year by the Commission. This bill would take cognizance of the possibility of undue delay and inconvenience to a vessel arriving from abroad at a U.S. port more than 12 months after its last annual inspection, by adding the following language to section 362(b):

"The Commission may, upon a finding that the public interest would be served thereby, waive the annual inspection required under this section from the time of first arrival at a United States port from a foreign port, for the sole purpose of enabling the vessel to proceed coastwise to another port in the United States where an inspection can be held: *Provided*, That such waiver may not exceed a period of thirty days."

Enactment of the bill would provide needed flexibility in the vessel inspection requirements to take care of situations such as have occurred where vessel operators have suffered costly delays due to the late hour of arrival at the port, or to unavailability of inspection personnel for one reason or another, or to a tight vessel schedule requiring prompt departure for another port.

The language of the bill is in accord with the suggestion of the Federal Communications Commission, as expressed to this committee during the 86th Congress when a bill of similar intent (S. 3496) was under consideration. In its comments on S. 1288, as submitted to your committee, the Communications Commission favors enactment of the bill, but makes it clear that it would expect the waiver provision to be exercised only "In those instances where it is impracticable to make the required inspection because of unavailability of inspection personnel, where the distance from the Commission's office to the vessel would not permit the completion of an inspection, including traveltime, during office hours, or where the duration of the vessel's stay in port is too short to permit inspection."

The Convention for the Safety of Life at Sea, as the Commission points out in its comments, is somewhat less rigid in its requirements for inspection of radio equipment installed in accordance with that convention.

The report of the Secretary of Commerce on the bill states that "from a commercial viewpoint, it would appear desirable to authorize the Federal Communications Com-

mission in appropriate cases to permit the shipowner this additional period to have his vessel inspected at an economically and operationally convenient port."

The American Merchant Marine Institute, Inc., at whose instance the original bill to provide an extension of time for vessel radio inspection was introduced, cites in its letter urging enactment of S. 1288:

"The ship radio station must be inspected at the first port of call rather than at a port selected by the shipowner for reasons of economic and operational convenience. For the foregoing reason, this proposed amendment is considered a matter of some import to the ocean steamship industry."

RCA Communications, Inc., a licensee of radio stations aboard several hundred vessels of the United States which are subject to the requirements of section 362(b) of the Communications Act, endorsing the bill states:

"It has been our experience that the proposed amendment would materially benefit and assist both the Federal Communications Commission and ship operators by permitting the needed flexibility in arranging for annual inspection."

There is no recorded opposition to the bill.

Comments of the Federal Communications Commission, the Secretary of Commerce, the Department of State, and the Comptroller General of the United States are appended, together with letters from the American Merchant Marine Institute, Inc., and the RCA Communications, Inc., favoring enactment.

There is no change in existing law.

COMMENTS OF THE FEDERAL COMMUNICATIONS COMMISSION ON S. 1288 AND H.R. 4743, 87TH CONGRESS, 1ST SESSION, IDENTICAL BILLS TO AMEND SECTION 362(b) OF THE COMMUNICATIONS ACT OF 1934

S. 1288 and H.R. 4743 would amend title III, part II of the Communications Act of 1934, as amended, by adding to section 362(b) the following:

"The Commission may, upon a finding that the public interest would be served thereby, waive the annual inspection required under this section from the time of first arrival at a United States port from a foreign port, for the sole purpose of enabling the vessel to proceed coastwise to another port in the United States where an inspection can be held: *Provided*, That such waiver may not exceed a period of thirty days."

Equipment and apparatus required to be installed by title III, part II, of the act is required by section 362(b) to be inspected at least once every 12 months. S. 1288 and H.R. 4743 would authorize the maximum permissible time lapse between inspections to be more than 12 months.

The Commission supports the introduction of an element of flexibility into the provisions of section 362(b). In the past, there have been instances of difficulty arising because of the inflexibility of section 362(b) and the lack of inspection facilities in certain ports. The parallel requirements of the Convention for the Safety of Life at Sea permit some inspectional leeway to administrations in connection with radio equipment to be installed by the convention. The Commission contemplates that the waiver provision would generally be exercised only in those instances where it is impracticable to make the required inspection because of unavailability of inspection personnel, where the distance from the Commission's office to the vessel would not permit the completion of an inspection, including traveltime, during office hours, or where the duration of the vessel's stay in port is too short to permit inspection.

The language of S. 1288 and H.R. 4743 is as was suggested by the Commission in

our comments on S. 3496, 86th Congress, 2d session.

The Commission favors enactment of this legislation.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1288) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following language be added to section 362(b) of the Communications Act of 1934 (47 U.S.C.A. 360):

"The Commission may, upon a finding that the public interest would be served thereby, waive the annual inspection required under this section from the time of first arrival at a United States port from a foreign port, for the sole purpose of enabling the vessel to proceed coastwise to another port in the United States where an inspection can be held: *Provided*, That such waiver may not exceed a period of thirty days."

AMENDMENT OF FAIR LABOR STANDARDS ACT

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives, announcing its disagreement to the amendment of the Senate to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes, and asked a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. GORE. Mr. President, I move that the Senate insist on its amendment, agree to the conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McNAMARA, Mr. MORSE, Mr. RANDOLPH, Mr. SMITH of Massachusetts, Mr. PELL, Mr. BURDICK, Mr. GOLDWATER, Mr. DIRKSEN, and Mr. PROUTY conferees on the part of the Senate.

RESTRICTED STOCK OPTIONS

Mr. GORE. Mr. President, on April 14 I introduced a bill, S. 1625, to put a stop to the granting of restricted stock options. In the brief remarks I made upon the introduction of this measure, I pointed out some of the fallacies in the reasoning of those who have supported this type of low-tax compensation. I also pointed out certain abuses in connection with these options, and offered some illustrations of the way in which this tax avoidance device has been used by highly compensated corporate executives to enrich themselves at the expense of the taxpaying public, and particularly at the expense of their own stockholders.

The response from the public has been most heartening. Many stockholders

have sent me proxy statements they have received from their companies detailing the stock option plans which have been in effect, or which have been proposed. After reading some of these proxy statements, I am afraid I was altogether too conservative in my estimates of the profits which corporate insiders are making from these options. One statement showed profits of more than 500 percent from this manipulation—at a tax rate of 25 percent, if at all.

One proxy statement in particular causes me great concern. I refer to the statement which was sent to IBM stockholders on March 21 of this year in preparation for the annual meeting of stockholders at noon tomorrow. What particularly disturbs me is that the IBM management now proposes to grant themselves a second round of options.

Those who have defended the principle of the restricted stock option have leaned heavily on the argument that very limited numbers of shares have been placed under option, and that the harm done to the company and the stockholders by virtue of this type of stock watering will be small. Now, this argument might hold up fairly well were companies to set aside one small block of stock, and when this was exhausted allow no more options.

But, this is not being done. Decent restraint is not being exercised. Company insiders are finding that the shares of stock set aside for the first round of options have all been allotted, and they are, therefore, setting aside additional shares for a second, or perhaps a third, round.

IBM adopted a stock option plan in 1956. Under that plan, some 130,000 shares were granted under option to 61 executives through calendar year 1959. No more options may be granted under the 1956 plan after tomorrow. So, it is now proposed that the stockholders, at this annual meeting, approve a new plan whereby 100,000 additional shares will be set aside for the benefit of officers and key employees.

Mr. President, there is apparently no end to this sort of rigging. Corporate directors and managers can continue, year after year, to set aside large blocks of stock for their own benefit, and to the detriment of legitimate purchasers of their company's stock who must go into the open market and purchase at the going rate.

These figures for IBM may not sound staggering, but bear in mind that IBM stock is a high priced stock—it is selling now for around \$720 per share.

Let me illustrate this point by showing what the president of the company, Mr. Thomas J. Watson, Jr., has gained. Under the 1956 plan, Mr. Watson was granted an option to purchase 7,643 shares of stock at a price of \$137.70. At current prices, this represents compensation, in addition to his regular annual compensation of more than \$300,000, of almost \$4.5 million.

And this added compensation is not taxable at the time the option is exercised, at which time a real, tangible, and measurable profit is realized.

I am happy that the chairman of the Senate Committee on Finance, the distinguished Senator from Virginia [Mr. Byrd] is doing me the honor of giving me his attention.

The tax accrues only at such time as the stock is sold, and then at a rate of only 25 percent. Should Mr. Watson choose to retain the optioned stock in his estate, then no income tax will ever be paid by anyone on this tremendous fortune. Meanwhile, taxes are withheld from the pay checks of every hourly paid worker employed by IBM.

Can it be argued by any reasonable man that Mr. Watson needs this extra \$4.5 million as an incentive to look after the company's affairs? Can it be successfully argued that Mr. Watson would, without this gimmick, leave the company so closely identified with his family and in which he, his brother, and their mother already own more than 175,000 shares worth some \$125 million? Do he and the other highly compensated executives need even more cut-rate bargain purchases?

I hope the stockholders of IBM will rise up tomorrow and vote down this new scheme. But I hold little hope of this. As I have previously pointed out, the managers have taken control away from the stockholders, and it is difficult for interested and knowledgeable stockholders to get together enough proxies to defeat a proposal sponsored by the management, and even for the benefit of the management.

It is, therefore, up to the Congress to act to protect all stockholders.

ELIMINATION OF ADDITIONAL FEES FOR CONTRACTOR FINANCING EXPENSES UNDER DEPARTMENT OF DEFENSE CONTRACTS

Mr. BYRD of Virginia. Mr. President, on May 13, 1960 The Senate adopted an amendment to the military construction bill of 1960 to stop Federal payment of additional fees for contractor financing expenses under Department of Defense contracts.

This amendment was later eliminated in the House-Senate conference on the bill, but I am pleased to advise the Senate at this time that the practice has been stopped by an administrative order. Substantial savings will result.

These fees were being paid in connection with many military contracts under Department of Defense Directive 7800.6, "Cost-Reimbursement Contracts—Payments for Work in Progress," dated November 1, 1957.

Audits by the Comptroller General found that under this directive the Government was paying millions of dollars in additional fees to cost-plus-fee contractors for which it received no significant benefit.

The Department of Defense on March 14 of this year canceled the 1957 directive in the interests of reducing costs and simplifying procurement administration.

There is reason to believe that this action resulted from the findings revealed by the Comptroller General's audits and the attention given to them

by Congress. Comptroller General's work in this matter is appreciated.

I ask unanimous consent that correspondence on the subject and a statement of explanation be printed in the RECORD as part of these remarks.

There being no objection, the correspondence and statement of explanation was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, March 28, 1961.

Hon. HARRY F. BYRD,
U.S. Senate.

DEAR SENATOR BYRD: Reference is made to our letter of February 28, 1961, in regard to payment of additional fees to contractors for agreeing to deferred reimbursement of costs under cost-type contracts. At that time, we stated our opinion that there was a present and continuing need for legislation on this subject.

On March 14, 1961, the Department of Defense rescinded its Directive 7800.6 dated November 1, 1957, which established the policy for payment of additional fees for contractor financing expenses. The Deputy Secretary of Defense issued the following statement to the military departments:

"In the interests of reducing costs and simplifying procurement administration, I have today directed the cancellation of the subject directive which provides for the withholding from contractors performing certain categories of cost-reimbursement type contracts twenty percent of costs incurred until deliveries of end items or performance of specified increments of work.

"Please take such actions as are necessary to provide for the omission of the withholding requirements from all new contracts. In addition it is desired that existing contracts containing the withholding provision be amended by supplemental agreement to provide for payment of withheld amounts whenever adequate consideration can be negotiated with the contractor in the form of an adjustment in the fixed fee."

Your aggressive interest and action in this matter, including introduction of legislation in the 86th Congress to nullify the policy, had a significant bearing on the action of the Department of Defense in rescinding this policy and will result in substantial savings to the Government.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., March 16, 1961.

Hon. HARRY F. BYRD,
U.S. Senate

DEAR SENATOR: On May 16 last year, you wrote me concerning an amendment to H.R. 10777, the military construction bill, which you introduced on May 12, 1960, the purpose of which was to nullify the effect of Department of Defense Directive 7800.6, which ordered withheld 20 percent of incurred reimbursable costs on cost-reimbursable contracts.

In our hearings on contracting procedures and in House Report No. 1959, 86th Congress, pages 22 and 23, the effect and cost of this directive was considered and brought forcefully to the attention of the Department of Defense, and the subject has been under active study.

I am happy to bring to your attention today, a cancellation issued March 14, 1961.

With warmest personal regards and very best wishes,

Faithfully yours,

CARL VINSON,
Chairman.

the oft rejected multiple price system long resisted by the Corn Belt and by small, family-sized farmers of the East operating under the 15-acre exemption.

The Kennedy-Freeman-Cochrane proposal would bypass the Congress in two major respects. Whatever 1962 wheat program the Secretary may devise would be put into effect without any review or opportunity for amendment by the Congress. The overall fantastic control scheme envisaged by this bill would allow the Congress only 60 days to look at its "basic features." And, second, the proposal would allow all this to be carried out through the back door of the Treasury without the prior approval of the Appropriations Committee.

That in substance is this new frontier for agriculture. What is it? Certainly not the land of freedom and plenty. This new agriculture frontier for all of us—farmers and consumers—is an arid desert of Government dependency, economic disaster, and individual despair.

Mr. BECKWORTH. Mr. Speaker, will the gentleman yield?

Mr. ARENDS. I yield to the gentleman from Texas.

Mr. BECKWORTH. The gentleman intimated as I recall in the debate that took place in connection with the grain sorghums program bill that probably what he has described here today could occur. I also remember that in one of the original statements concerning the legislation it was said that some 8 million people have departed from the farms of our Nation in the last several years.

Does the gentleman feel as a result of the new program possibly additional farmers will be added to those who have not been able to remain on farms?

Mr. ARENDS. It is possible that trend will continue, but far and above that is the pattern as we visualize it here today, the complete regimentation of every segment of agriculture. We cannot get away from that. We are automatically going into controls on livestock as well as other things.

Mr. BECKWORTH. If the gentleman will yield further, I want to make this comment, that controls have been most rigid in connection with the cotton program for 20 years. In my opinion this has caused many small farmers to be compelled to leave farms.

FAIR LABOR STANDARDS ACT OF 1938

Mr. POWELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from New York? The Chair hears none, and ap-

points the following conferees: Messrs. POWELL, ROOSEVELT, DENT, KEARNS, and AYRES.

SOCIAL SECURITY ACT

Mr. KEOGH. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4884) to amend title IV of the Social Security Act to authorize Federal financial participation in aid for dependent children of unemployed parents, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. GROSS. Mr. Speaker, reserving the right to object, I assume this has been cleared with the leadership on this side of the aisle?

Mr. KEOGH. I am sure of it.

Mr. GROSS. Well, is the gentleman so stating?

Mr. KEOGH. I am stating it. I just left our committee, and it was at the direction of the chairman of the committee, with the members of the minority who will be on the committee of conference, present.

Mr. GROSS. I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. MILLER, KING of California, O'BRIEN of Illinois, MASON, and BYRNES of Wisconsin.

SECRETARY UDALL AND CUBA

(Mr. LAIRD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter and tables.)

Mr. LAIRD. Mr. Speaker, yesterday, during a television interview, Interior Secretary Stewart Udall made an appalling remark about the Cuban crisis.

At a time when President Kennedy is striving to insure bipartisan unity in this deepening crisis, Mr. Udall saw fit to drive a wedge between our parties by attempting to place the blame for the Cuban debacle upon the shoulders of former President Eisenhower and Mr. Nixon.

Mr. Udall had the remarkable bad taste to say that the anti-Castro Cuban invasion was conceived by General Eisenhower and Mr. Nixon a year ago and that "they started it and handed it over to Mr. Kennedy. Eisenhower directed it. Another administration carried it out."

Mr. Speaker, as a member of the Defense Appropriations Subcommittee of the House I have had the benefit of background briefings on this evolving situation. Therefore I can say with conviction that Mr. Udall's statements are pure and unadulterated hogwash.

If Mr. Udall is seeking to place the responsibility for a grave situation on other shoulders than those of the administration he represents let him look elsewhere for his scapegoat.

The Secretary did refer to the picture of American unity that the eyes of the world must behold if we are to be effective in this, and other, crises. The meetings President Kennedy has been having with Republican leaders such as Mr. Eisenhower and Mr. Nixon, and his forthcoming meeting with Governor Rockefeller will contribute substantially to such unity. I submit that this is the way in which the administration can assure bipartisan support, not in the shoddy manner Mr. Udall has seen fit to employ.

It is my sincere hope that the Kennedy administration will see fit to brief its cabinet officers in such a way that they will be properly informed before making appearances in which they are sure to be asked to comment on issues of the day.

In the meantime, I would suggest that the Interior Secretary undertake to smooth the waters of bipartisanship which he has so greatly troubled by his rash and inaccurate statement.

Mr. Speaker, because of its background information and commentary in this entire matter, I would like to include at this time for insertion in the RECORD a column by Mr. Stewart Alsop entitled, "Matter of Fact", from this morning's Washington Post and Times Herald:

IF YOU STRIKE AT A KING

(By Stewart Alsop)

Sometimes it is useful to state the obvious. After the events of the last tragic week, and especially after what President Kennedy said in his speech to the editors, Fidel Castro cannot indefinitely be permitted to survive in triumph. The prestige and even the honor of the United States are now obviously and wholly committed to Castro's ultimate downfall.

There is hardly anybody in the higher reaches of the Kennedy administration who does not agree that this commitment to Castro's destruction now in fact exists. And yet President Kennedy and his advisers certainly did not plan the commitment. On the contrary, the President's key decision in regard to the Cuban operation were specifically designed to avoid such a commitment.

There were two key decisions made by the President after he decided to give the operation a green light. The plan for the operation which the President inherited from President Eisenhower involved the use of American armed force—for example, naval airpower—if necessary to assure the success of the operation. President Kennedy's first key decision was to rule out the use of any American forces whatever, under any conditions whatever. His second decision was to announce the first decision, just as the operation began.

The public announcement that American forces would under no circumstances be involved was reiterated twice by the President himself and four times with even more emphasis by Secretary of State Dean Rusk. The announcement obviously greatly reduced the likelihood of a general uprising in Cuba, which was the main purpose of the Cuban operation. It also quite unnecessarily tied the President's hands in advance.

After the operation began to go bad, at an all-day meeting at the White House on Wednesday, certain of the President's military and civilian advisers favored active American intervention. They argued that the operation simply could not be allowed to fail, if only because the United States would in that event become in the eyes of the world the most papery of paper tigers. The President might well have favored this course

himself, if he had not so publicly tied his own hands in advance. Why did he do so? This reporter has tried hard to find the answer to that question, and must confess a partial failure. The fact is that there has been something oddly uncharacteristic about the President's role in the Cuban affair. To be sure, since the operation failed, his actions have been wholly characteristic of the man—he has taken the whole responsibility for the failure on himself and he has passed the word down the line that there will be no recriminations and no scapegoat hunt. The uncharacteristic phase came earlier.

Throughout his career—as for example in his decision to enter the key Wisconsin and West Virginia primaries last year—Mr. Kennedy has always looked before he leaped. He had looked very hard, carefully weighing every conceivable factor likely to affect the outcome. And then he has leaped very hard, using every conceivable means to assure success.

In the looking phase of the Cuban operation, Mr. Kennedy was certainly the victim of bad intelligence. But intelligence is and always has been two-thirds guesswork, and it is hard to believe that the President adequately weighed the consequences of failure. This is further borne out by the fact that the leaping phase of the operation was, by past Kennedy standards, so uncharacteristically tentative. The idea that Castro could be brought down without any risk at all of using American men or arms recalls the old rhyme of dubious origin:

"Mother, may I go out to swim?
"Yes, my darling daughter;
"Hang your clothes on a hickory limb
"And don't go near the water."

At least part of the explanation for the markedly un-Kennedylike quality of the President's role in the first phase of the Cuban operation lies with United Nations Ambassador Adlai Stevenson, whose voice is listened to with respect in the Kennedy administration.

From his own point of view it was quite natural that Stevenson would strongly favor a categorical promise that American forces would not be used in Cuba. The peculiar holler-than-thou public stance which succeeding American delegations to the UN have always thought it necessary to assume was difficult to sustain in any case, in view of the obvious American complicity in the Cuban operation. Without the Kennedy promise, it would have been impossible to sustain.

Kennedy has spoken of "the lessons we have learned" from the tragic Cuban episode. One lesson, surely, is that what pleases the majority of the strangely assorted gaggle of more or less sovereign nations which now constitute the UN General Assembly does not necessarily serve the national interest of the United States. Another lesson is summed up in the old adage, "If you strike at a king, you must strike to kill."

Some day, one way or another, the American commitment to bring Castro down will have to be honored. The commitment can only be honored if the American Government is willing, if necessary, to strike to kill, even if that risks the shedding of American blood.

WINNER OF COOK COUNTY, ILL., AMERICAN LEGION ORATORICAL CONTEST

The SPEAKER. Under previous order of the House, the gentleman from Illinois [Mr. LIBONATI] is recognized for 10 minutes.

Mr. LIBONATI. Mr. Speaker, the American Legion, Department of Illinois, has recently, through its official oratori-

cal judicial staff, under the auspices of the Americanism committee, made its selection of the 1961 oratorical winner's speech for the first division council contest, entitled, "America and the Constitution: Past, Present and Future," by Thomas L. Brejcha, Jr., of Mount Carmel High School, Chicago, Ill.

The American Legion has fostered and promoted many patriotic movements among our youth, such as girls' and boys' states, poor boys' camps, and welfare and charitable programs, but none are as far reaching as the oratorical and essay contests.

The thousands of youngsters throughout the public and parochial primary and high school grades in Illinois, compete for this high honor.

The hours spent in research of patriotic subjects and historical works stimulate patriotic thoughts and knowledge of both our patriotic leaders and their concept of our Constitution in its use and control of our Government.

Thus, we give our youth an opportunity to study our Government and the intricacies of its constitutional operation. This training is of tremendous value in molding our future citizens for their civic responsibilities in the future.

Mr. Frank C. Bottigliero, State director of rehabilitation, manager of the Chicago office, and formerly chairman of the State Americanism committee, who trained under my deceased brother, Eliodor Libonati, chairman of the Americanism committee for many years before his death, and who was responsible for many of the American Legion's Americanism programs, sent me the following letter:

THE AMERICAN LEGION,
Chicago, Ill., April 20, 1961.

HON. ROLAND V. LIBONATI,
U.S. Congressman,
Seventh District,
Chicago, Ill.

DEAR LIB: Enclosed please find the oration of the 1961 oratorical winner for the first division council contest which I talked to you about and you said that if we would send a copy to you you would have it entered in the CONGRESSIONAL RECORD.

Sincerely,

FRANK C. BOTTIGLIERO,
State Director of Rehabilitation, Man-
ager of the Chicago Office.

AMERICA AND THE CONSTITUTION: PAST, PRESENT, AND FUTURE

(By Thomas L. Brejcha, Jr., Mount Carmel High School, Chicago, Ill.)

The scene is State and Madison Streets—the "crossroads of the world"—in Chicago, Ill., my hometown. It is any hour of the working day, almost any day in the year. Everywhere there are people here, all the different types and sorts of people imaginable—Protestants, Catholics, and Jews—whites, Negroes, and orientals—shoppers, executives, and plumbers—all moving and pushing in a ceaseless surge, each going his own way and minding his own business. And yet, all those different people, all those different races, religions, and occupations have something very much in common: all are freemen; all are Americans.

Yes, here in America we are all freemen, regardless of origin, race, or creed. We are free to ply our trades, enjoy our leisure, and accept the challenge of a New Frontier. We are free to scale the tallest mountain—to write poetry—to raise our families as we see fit. In America you and I are free to dream

the dreams that no mere man has ever dared dream before * * * and see those dreams become reality before our very eyes. All these things we may choose to do because we are freemen, each and every one of us, and this is America.

But many years ago, this blessed and prosperous land that we know today as the United States was but a hapless conglomeration of political factions, guided by selfish interest, bitterly opposed to any notion of union. However, soon were the advocates of the Articles of Confederation to realize that a house of dissension offered no security to a fledgling America, that the best guarantee of individual liberty and freedom was a Constitution that was also a ligament of national unity.

And so it was that a group of eminent statesmen, representing some of the best talents in the land, gathered in Philadelphia in 1787 to rescue a nation from the crucible of political chaos. During the many days and weeks that followed, the red brick walls of the Pennsylvania State House were to resound with the clash of harsh voices and strained tempers. There was Jefferson, young and impetuous, who opposed any modification of a pure Athenian democracy; there was Hamilton, arrogant and aristocratic, who scorned any attempt at Government by mere "common men"; and there was Washington, august and determined, whose only concern was to preserve a hard-won independence from internal dissolution. There were many others—the Gouverneur Morris, the Franklins, the Madisons—and almost as many different points of view. But within that turbulent chamber an even greater spirit would prevail—a spirit that could not be dispelled by faction. From Hamilton's Federalism and Jefferson's Localism came an equitable distribution of power between national and State government; from the interaction of aristocracy and democracy came the ideal middle ground of a popular Republic; by conciliation and compromise both the radical and the conservative idea were synthesized to form the foundations of the American society which we enjoy to this day.

But as the signatories pressed their seal upon the newly formed Constitution of the United States, they realized that only the first obstacle had been hurdled. The document that British Prime Minister Gladstone had once described as "the most wonderful work ever struck off at a given moment by the brain and purpose of man" was, nevertheless, only a mere document * * * a piece of parchment. The only true test for a system of government is the test of time.

The Founding Fathers envisioned for their young Nation a long and glorious history. And under our Constitution we have had that long and glorious history, but only through the devotion, sweat, and blood of our predecessors in their unswerving resolution to protect and cherish our way of life and its vital institutions. During the nearly two centuries that have elapsed since the ship of American statehood was launched toward its ultimate destiny, men have had to strive to overcome the evil that hates freedom—not only on the battlefield, but in their everyday lives. In face of economic and military crises alike, the Federalist, the anti-Federalist, the Democrat, the Whig, and the Republican have together rallied around their common Americanism. And only once throughout all these many years has the Constitution ever failed us, and that was during the time of the Civil War—when we failed it.

And now, in this very day, Americans face a greater time of trial than ever before. A short, squat man has thrust a pudgy finger in our direction with the foreboding message: "We will bury you." The communistic evil which he embodies threatens not only the economic superiority of our enlightened capitalism, but our very existence as free

Digest of CONGRESSIONAL PROCEEDINGS

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

CONTENTS

Issued May 2, 1961
For actions of May 1, 1961
87th-1st, No. 72

Adjournment.....	18		
Administrative orders....	4		
Census.....	16		
Contracts.....	14, 30		
Depressed areas.....	24, 25		
Electrification.....	19		
Ethics.....	9		
Farm income.....	21		
Farm labor.....	1, 22		
Farm program.....	23		
Foreign aid.....	15, 20		
Forestry.....	13		
Imports.....	10	Organization.....	27
Land.....	5, 7, 26	Personnel.....	28
Legislative program.....	17	Research.....	3, 13, 14
Minimum wage.....	2, 17	Roads.....	29
Nomination.....	16	Rural affairs.....	27
		Seeds.....	3
		Taxation.....	11
		Tobacco.....	12
		Urban affairs.....	8
		Vehicles.....	6

HIGHLIGHTS: President approved depressed areas bill. Conferees agreed to file report on minimum wage bill. Rep. Cunningham introduced and discussed bill to establish Department of Small Towns and Rural Affairs.

HOUSE

1. FARM LABOR. Rep. Sisk reported from the Rules Committee a resolution for the consideration of H. R. 2010, to extend the Mexican farm labor program for an additional 2 years until December 31, 1963. pp. 6529, 6538
2. MINIMUM WAGE. Conferees agreed to file a report on the differences between the Senate-and House-passed versions of H.R. 3935, the minimum wage bill (p. D297). The "Daily Digest" states as follows: "As agreed by the conferees, the bill would (1) extend minimum wage coverage to approximately 3.6 million workers (provisions for extended coverage to employees of laundry establishments and automobile dealers were deleted from the bill), (2) establish the 5-year escalation period to reach the minimum wage of \$1.25, and the 40-hour workweek, and (3) adopt the so-called inflow test, which means that retail and service enterprises would be covered by the bill, only if they met the following test: (a) the employer must be engaged in commerce or the production of goods for commerce, (b) the employer must receive \$250,000 worth of goods, for resale, which have moved across State lines (so-called 'inflow' test), and (c) the employer must have an annual gross volume of sales of not less than \$1 million, exclusive of excise taxes at the retail level."
3. SEEDS; RESEARCH. Passed as reported H. R. 2041, to remove the restriction on the interstate shipment of water-hyacinth plants or seeds to certain areas where the plants are unable to survive winter weather. p. 6522

4. ADMINISTRATIVE ORDERS. Passed without amendment H.R. 5656, to provide for reasonable notice of applications to the U. S. courts of appeals for interlocutory relief against the orders of certain administrative agencies. p. 6522
5. PUBLIC LANDS. Passed as reported H.R. 2280, to provide for the withdrawal of certain public lands 40 miles east of Fairbanks, Alaska, for use by the Department of the Army as a Nike range, and H. R. 2281, to reserve for use by the Department of the Army at Fort Richardson, Alaska, certain public lands in the Campbell Creek area. pp. 6524-5
6. VEHICLES. Passed as reported H.R. 2883, to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment. p. 6526
7. LANDS. Passed without amendment H. R. 5416, to include within the boundaries of Joshua Tree National Monument in California, certain donated lands used in connection with the monument. pp. 6526-7
8. URBAN AFFAIRS. Rep. Green, Oreg., inserted a resolution from the Portland Association of Building Owners and Managers commending the President's decision to create a Department of Urban Affairs. p. 6528
9. GOVERNMENT ETHICS. Received from the President a draft of a proposed bill "to supplement and revise the laws prescribing restrictions against conflicts of interest applicable to employees of the executive branch of the Government of the United States"; to Judiciary Committee. p. 6537
10. IMPORTS. The Ways and Means Committee voted to report (but did not actually report) H. R. 6611, to reduce temporarily the exemption from duty enjoyed by returning U. S. residents. p. D297
11. WITHHOLDING TAX. The Ways and Means Committee voted to report (but did not actually report) H. R. 2017, providing for the withholding of income taxes on the compensation of Federal employees for purposes of the income tax imposed by certain cities. p. D297
12. TOBACCO. The Ways and Means Committee voted to report (but did not actually report) H.R. 4940, to provide for the modification of import duties on certain types of Philippine tobacco. p. D297

SENATE

13. FORESTRY. Sen. Wiley inserted a letter from the general chairman of the Lake States Forest Fire Research Conference favoring an expanded program of research on new methods for control of forest fires. p. 6498
14. RESEARCH. Received from GSA the semi-annual report on contracts negotiated for experimental, developmental, and research work. p. 6477
15. FOREIGN AID. Sen. Wiley inserted several letters from business leaders favoring greater utilization of private enterprise to support and further the objectives of U. S. foreign policy. pp. 6492-6
16. NOMINATION. Confirmed the nomination of Richard M. Scammon to be Director of the Census Bureau. p. 6517
17. LEGISLATIVE PROGRAM. Sen. Mansfield stated that the conference report on H. R. 3935, the minimum wage bill, will probably be considered on Wed. p. 6476

STEAMSHIP CONFERENCES

Committee on Merchant Marine and Fisheries: Friday, April 28, Special Subcommittee on Steamship Conferences concluded hearings on H.R. 4299, to provide for the operation of steamship conferences, with testimony from Thomas E. Stakem, Chairman, Federal Maritime Board.

FEDERAL-AID HIGHWAY ACT

Committee on Public Works: Met in executive session and ordered favorably reported to the House H.R. 6713 (a clean bill introduced in lieu of H.R. 5200), the Federal-Aid Highway Act of 1961.

NASA APPROPRIATION AUTHORIZATION

Committee on Science and Astronautics: Met in executive session to receive subcommittee reports on H.R. 6029, to authorize appropriations to the National Aeronautics and Space Administration for salaries and expenses, research and development, and construction of facilities. The committee will meet again, Wednesday, May 3, in executive session, on this subject.

WAYS AND MEANS MISCELLANY

Committee on Ways and Means: Met in executive session and ordered favorably reported to the House the following bills:

H.R. 6611, to reduce temporarily the exemption from duty enjoyed by returning residents;

H.R. 311, to authorize the acceptance by the Government of gifts to be used to reduce the public debt;

H.R. 2017, relating to withholding, for purposes of the income tax imposed by certain cities, on the compensation of Federal employees;

H.R. 4940, relating to duty-free imports of Philippine tobacco; and

H.R. 1877, a private bill.

The committee will meet again Wednesday, May 3, on the President's tax message.

Joint Committee Meetings

GOVERNMENT PRICE STATISTICS

Joint Economic Committee: Subcommittee on Economic Statistics resumed its hearings on a report prepared by the Price Statistics Review Committee of the National Bureau of Economic Research entitled "The Price Statistics of the Federal Government: Review, Appraisal, and Recommendations." Testimony was received from George J. Stigler, Chairman, University of Chicago, Richard Ruggles, Yale University, Boris Swerling, Stanford University, Dorothy Brady, University of Pennsylvania, and Philip McCarthy, Cornell University, members, all of the Price Statistics Review Committee.

Hearings continue tomorrow.

MINIMUM WAGE

Conferees, in executive session, agreed to file a conference report on the differences between the Senate- and House-passed versions of H.R. 3935, Fair Labor Standards Amendments of 1961. As agreed by the conferees, the bill would (1) extend minimum wage coverage to approximately 3.6 million workers (provisions for extended coverage to employees of laundry establishments and automobile dealers were deleted from the bill), (2) establish the 5-year escalation period to reach the minimum wage of \$1.25, and the 40-hour workweek, and (3) adopt the so-called inflow test, which means that retail and service enterprises would be covered by the bill, only if they met the following test: (a) the employer must be engaged in commerce or the production of goods for commerce, (b) the employer must receive \$250,000 worth of goods, for resale, which have moved across State lines (so-called "inflow" test), and (c) the employer must have an annual gross volume of sales of not less than \$1 million, exclusive of excise taxes at the retail level.

BILL SIGNED BY THE PRESIDENT

New Law

(For last listing of public laws, see DIGEST, p. D279, April 25, 1961)

S. 1, Area Redevelopment Act of 1961. Signed May 1, 1961 (P.L. 87-27).

COMMITTEE MEETINGS FOR TUESDAY, MAY 2

(All meetings are open unless otherwise designated)

Senate

Committee on Appropriations, subcommittee, to begin hearings on fiscal 1962 budget estimates for the Department of Agriculture, to hear officials of the Agricultural Research Service, 10 a.m., 1114 New Senate Office Building;

Subcommittee, to continue hearings on fiscal 1962 budget estimates for the Department of the Interior, 10 a.m., 1223 New Senate Office Building;

Subcommittee, to continue hearings on fiscal 1962 budget estimates for the Defense Establishment, 10 a.m., 1224 New Senate Office Building;

Subcommittee, to begin hearings on fiscal 1962 budget estimates for public works, 10 a.m., room F-37, Capitol;

Full committee, executive, to mark up H.R. 6518, making appropriations for the Inter-American Social and Economic Cooperation Program, 2:30 p.m., 1223 New Senate Office Building.

Committee on Commerce, on the nomination of Joseph C. Swidler, of Tennessee, to be a member of the FPC, to be followed by executive on committee business, 10 a.m., 5110 New Senate Office Building.

Committee on Foreign Relations, on nominations; the International Telecommunications Convention (Ex. J, 86th Cong., 2d sess.), and Radio Regulations (Ex. I, 86th Cong., 2d sess.); and S.J. Res. 75, providing for U.S. acceptance of the Agreement for the Establishment of the Caribbean Organization, 10 a.m., 4221 New Senate Office Building.

Executive, to receive a briefing from CIA Director Allen Dulles on Cuba, and other matters, 3 p.m., room F-53, Capitol.

Committee on Government Operations, Permanent Investigating Subcommittee, to resume its hearings on work stoppages, wastes, and inefficiency in the missile construction industry, 10 a.m., 3302 New Senate Office Building.

Committee on the Judiciary, Antitrust and Monopoly Subcommittee, to continue hearings on identical bidding in the electrical manufacturing industry, 9:30 a.m., 318 Old Senate Office Building.

Constitutional Rights Subcommittee, to resume its hearings on constitutional rights of the mentally ill, 10 a.m., 2228 New Senate Office Building.

Committee on Labor and Public Welfare, Subcommittee on Education, executive, to resume consideration of S. 1021, Federal aid to education bill, 9:30 a.m., 4232 New Senate Office Building.

Committee on Post Office and Civil Service, Retirement Subcommittee, executive, on pending bills, 3 p.m., 6200 New Senate Office Building.

House

Committee on Agriculture, on H.R. 6400, general farm legislation, 10 a.m., 1310 New House Office Building.

Committee on Agriculture, Subcommittee on Oilseeds and Rice, on H.R. 1021, to extend for 2 years definition of "peanuts" which is now in effect under AAA of 1938, 2 p.m., 1310 New House Office Building.

Committee on Armed Services, on H.R. 6151, to authorize appropriations for aircraft, missiles, and vessels, executive, 10 a.m., 313-A Old House Office Building.

Committee on Banking and Currency, Subcommittee on Housing, on H.R. 6028, general housing legislation, 10 a.m., 1301 New House Office Building.

Committee on District of Columbia, Subcommittee No. 4, on H.R. 5678, to amend the D.C. Alcoholic Beverage Control Act to prohibit certain advertising with respect to price, 10 a.m., 445-A Old House Office Building.

Committee on Education and Labor, on H.R. 6483, college academic facilities and scholarship bill, executive, 9:45 a.m., 429 Old House Office Building.

Subcommittee on National Labor Relations Board, executive, 9 a.m., 429 Old House Office Building.

Committee on Foreign Affairs, Subcommittee on State Department Organization and Foreign Operations, on personnel policies in Latin America, executive, 10:30 a.m., G-3 U.S. Capitol Building.

Committee on Interior and Insular Affairs, Subcommittee on National Parks, on two proposed concession contracts; H.R. 5518, re Fort Raleigh National Historic Site in North Carolina; and H.R. 5548, regarding Cumberland Gap Historical Park, 9:45 a.m., 1324 New House Office Building.

Committee on Interstate and Foreign Commerce, on H.R. 4998, Community Health Services and Facilities Act of 1961, 10 a.m., 1334 New House Office Building.

Committee on the Judiciary, Subcommittee No. 5, on pending legislation, executive, 10:30 a.m., 346 Old House Office Building.

Committee on Merchant Marine and Fisheries, Special Subcommittee on Steamship Conferences, on H.R. 4299, to provide for the operation of steamship conferences, executive, 10 a.m., 219 Old House Office Building.

Committee on Post Office and Civil Service, on H.R. 6418, re postal rates, 10 a.m., 215 Old House Office Building.

Committee on Rules, to consider granting a rule on H.R. 6441, to amend the Federal Water Pollution Control Act, 10:30 a.m., G-12 U.S. Capitol Building.

Joint Committee

Joint Economic Committee, Subcommittee on Economic Statistics, to continue hearings on price statistics of the Federal Government, 10 a.m., room G-308 (auditorium) New Senate Office Building.

Digest of CONGRESSIONAL PROCEEDINGS

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

Issued May 3, 1961

For actions of May 2, 1961

87th-1st, No. 73

CONTENTS

CCC.....	13
Coffee.....	15
Contracts.....	12
Country elevators.....	1
Economic report.....	3
Education.....	7,25
Farm research.....	10
Food processing.....	1
Foreign aid.....	6,8,20
Forest roads.....	16
4-H awards.....	13
Fruits and vegetables.....	1,17
Highways.....	19
Housing.....	24
Imports.....	17
Lands.....	16,22
Legislative program.....	5

Livestock.....	1	Steamship conferences.....	4
Marketing.....	17	Taxation.....	11
Minimum wage.....	1	Tobacco.....	1
Nominations.....	21	Transportation.....	1,4,9
Personnel.....	23	Water pollution.....	2,14

HIGHLIGHTS: House received conference report on minimum wage bill. Rep. Johnson, Calif., introduced and discussed bill to provide increased authorizations for forest roads and trails.

HOUSE

1. MINIMUM WAGE. Received the conference report on H. R. 3935, the minimum wage bill (H. Rept. 327) (pp. 6541-7). As reported by the conference committee the bill includes the following provisions:
 - Increases the minimum wage for presently covered employees to \$1.15 an hour on the effective date of the bill and to \$1.25 an hour 2 years thereafter;
 - Increases the minimum wage for newly covered employees to \$1.25 an hour over a 5-year period;
 - Exempts workers who may occasionally engage in livestock auction operations as an adjunct to their regular work of raising livestock;
 - Exempts workers employed at country elevators that market farm products for farmers, provided not more than 5 employees are employed at the elevator;
 - Exempts workers engaged in ginning cotton for market at any location in a county where cotton is grown in commercial quantities;
 - Exempts workers engaged in processing shade-grown tobacco for use as cigar wrapper tobacco if the workers are engaged in the growing and harvesting of such tobacco;
 - Exempts workers engaged in the transportation of fruits and vegetables from the farm to a place of first processing or first marketing within the same State, and the transportation between the farm and any point within the same State of workers employed or to be employed in the harvesting of the commodity;

Requires the Secretary of Labor, when he has reason to believe that employment in an industry under the act has decreased or is likely to decrease because of foreign competition, to investigate the matter and report to the President and Congress; and

Requires the Secretary of Labor to study the system of exemptions now available for handling and processing of agricultural products and to submit to the 2nd session of the 87th Congress a report on the results of the study, with recommendations for further legislation designed to simplify and remove inequities in the application of such exemptions.

2. WATER POLLUTION. The Rules Committee reported a resolution for consideration of H. R. 6441, to amend the Federal Water Pollution Control Act to provide for a more effective program of water pollution control. p. 6563
3. ECONOMIC REPORT. Rep. Patman submitted the Joint Economic Committee's 1961 Economic Report (H. Rept. 328). pp. 6563
4. STEAMSHIP CONFERENCES. The "Daily Digest" states that the Merchant Marine and Fisheries Subcommittee on Steamship Conferences "ordered a clean bill introduced in the House, for reporting to the full committee, in lieu of H. R. 4299, to provide for the operation of steamship conferences." p. D304
5. LEGISLATIVE PROGRAM. Rep. McCormack announced that the conference report on H. R. 3935, the minimum wage bill, and H. R. 6441, to amend the Federal Water Pollution Control Act to provide for a more effective program of water pollution control, will be considered today, May 3. pp. 6556-7

SENATE

6. FOREIGN AID. The Appropriations Committee voted to report (but did not actually report) without amendment H. R. 6518, to appropriate \$500 million for the Inter-American Social and Economic Cooperation Program and \$100 million for the Chilean Reconstruction and Rehabilitation Program. p. D301
7. EDUCATION. The Education Subcommittee of the Labor and Public Welfare Committee voted to report to the full committee S. 1021, to provide Federal assistance for public school facilities, including schools in Federally impacted areas. p. D302

ITEMS IN APPENDIX

8. FOREIGN AID. Extension of remarks of Rep. Rhodes inserting an article expressing approval of House passage of the aid bill for Latin America. pp. A3002-3
9. TRANSPORTATION. Extension of remarks of Rep. Shelley commending and inserting an article discussing current dual rate legislation. pp. A3009-10
10. FARM RESEARCH. Rep. Ellsworth inserted an article, "Big Lag Is Found in Farm Research -- Less Than 1 Percent of Income Is Spent for Agriculture." p. A2989
11. TAXATION. Rep. Ellsworth inserted an article "A Sound Tax Purpose: To Boost the Economy," criticizing the President's proposal for the cancellation of the \$50 exemption and 4-percent credit on dividend taxes. p. A2996

FAIR LABOR STANDARDS AMENDMENTS OF 1961

MAY 2, 1961.—Ordered to be printed

Mr. POWELL, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 3935]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Fair Labor Standards Amendments of 1961".

DEFINITIONS

SEC. 2. (a) Paragraph (m) of section 3 of the Fair Labor Standards Act of 1938, as amended, defining the term "wage", is amended by inserting before the period at the end thereof a colon and the following: "Provided, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: Provided further, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable

and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee”.

(b) Paragraph (n) of section 3 of such Act is amended by inserting immediately before “shall not” the following “, except as used in subsection (s)(1),”.

(c) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs:

“(p) ‘American vessel’ includes any vessel which is documented or numbered under the laws of the United States.

“(q) ‘Secretary’ means the Secretary of Labor.

“(r) ‘Enterprise’ means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor: Provided, That, within the meaning of this subsection, a retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not necessarily limited to, an agreement, (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

“(s) ‘Enterprise engaged in commerce or in the production of goods for commerce’ means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

“(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated and if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more;

“(2) any such enterprise which is engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

“(3) any establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;

“(4) any such enterprise which is engaged in the business of construction or reconstruction, or both, if the annual gross volume from the business of such enterprise is not less than \$350,000;

“(5) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000, exclusive of excise taxes at the retail level which are separately stated:

Provided, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce, or a part of an enterprise engaged in commerce or in the production of goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner.”

INVESTIGATIONS OF EFFECTS ON EMPLOYMENT OF FOREIGN COMPETITION

SEC. 3. Section 4 of such Act is amended by adding at the end thereof the following new subsection:

“(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in fact resulted, or is in fact likely to result, from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress: Provided, That he may also include in such report information on the increased employment resulting from additional exports in any industry under this Act as he may determine to be pertinent to such report.”

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting after the words “production of goods for commerce” wherever they appear, the following: “or employed in any enterprise engaged in commerce or in the production of goods for commerce”.

MINIMUM WAGES

SEC. 5. (a) (1) Section 6(a) of such Act is amended by inserting after the word “who” in the portion thereof preceding paragraph (1), the words “in any workweek”.

(2) Paragraph (1) of section 6(a) of such Act is amended to read as follows:

“(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section.”

(3) The first sentence of paragraph (3) of section 6(a) of such Act is amended to read as follows:

“(3) if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee

or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time."

(b) Subsection (b) of section 6 of such Act is amended to read as follows:

"(b) Every employer shall pay to each of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3 (s) (1), (2), or (4) or by an establishment described in section 3(s) (3) or (5), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at rates—

"(1) not less than \$1 an hour during the first three years from the effective date of such amendments; not less than \$1.15 an hour during the fourth year from such date; and not less than the rate effective under paragraph (1) of subsection (a) thereafter;

"(2) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement)."

(c) Subsection (c) of section 6 of such Act is amended to read as follows:

"(c) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5: Provided, That (1) the following rates shall apply to any such employee to whom the rate or rates prescribed by subsection (a) would otherwise apply:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, increased by 15 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1961 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Beginning two years after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 10 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage

order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

“(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1961 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

“(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

“(2) In the case of any such employee to whom subsection (b) would otherwise apply, the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1961.

“(3) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required

to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee."

MAXIMUM HOURS

SEC. 6. (a) Subsection (a) of section 7 of such Act is amended by designating such subsection as subsection (a)(1), by inserting after the word "who" the words "in any workweek", and by striking out the period at the end thereof and inserting a semicolon and the word "and" in lieu thereof and adding the following new paragraph (2):

"(2) No employer shall employ any of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1) or (4), or by an establishment described in section 3(s)(3), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this subsection, or (ii) is brought within the purview of this subsection by the amendments made to section 13 of this Act by the Fair Labor Standards Amendments of 1961—

"(A) for a workweek longer than forty-four hours during the third year from the effective date of the Fair Labor Standards Amendments of 1961,

"(B) for a workweek longer than forty-two hours during the fourth year from such date,

"(C) for a workweek longer than forty hours after the expiration of the fourth year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."

(b) Subsection (b) of section 7 of such Act is amended by striking out "in excess of forty hours in the workweek" in paragraph (2) and inserting in lieu thereof the following: "in excess of the maximum workweek applicable to such employee under subsection (a)".

(c) Paragraph (5) of subsection (d) of section 7 of such Act is amended by striking out "forty in a workweek" and inserting in lieu thereof the following: "in excess of the maximum workweek applicable to such employee under subsection (a)".

(d) Paragraph (7) of subsection (d) of section 7 of such Act is amended by striking out "forty hours" and inserting in lieu thereof the following: "the maximum workweek applicable to such employee under subsection (a)".

(e) Subsection (e) of section 7 of such Act is amended (1) by striking out "forty hours" and inserting in lieu thereof "the maximum workweek applicable to such employee under subsection (a)", (2) by striking out "section 6(a)" and inserting in lieu thereof "subsection (a) or (b) of section 6 (whichever may be applicable)", and (3) by striking out "forty in any" and inserting in lieu thereof "such maximum".

(f) Subsection (f) of section 7 of such Act is amended by striking out "forty hours" both times it appears therein and inserting in lieu thereof the following: "the maximum workweek applicable to such employee under such subsection".

(g) Section 7 of such Act is amended by adding at the end thereof the following new subsection:

"(h) No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period (not less than one month) represents commissions on goods or services."

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 7. Subsection (a) of section 8 of such Act is amended by inserting after the word "industries" where it appears in the first sentence the words "or enterprises"; and by inserting after the words "production of goods for commerce" where they appear in the second sentence the following: "or in any enterprise engaged in commerce or in the production of goods for commerce".

CHILD LABOR PROVISIONS

SEC. 8. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "or in any enterprise engaged in commerce or in the production of goods for commerce."

EXEMPTIONS

SEC. 9. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

"(a) The provisions of sections 6 and 7 shall not apply with respect to—

"(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

"(2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, if such establishment—

"(i) is not in an enterprise described in section 3(s), or

"(ii) is in such an enterprise and is a hotel, motel, restaurant, or motion picture theater; or is an amusement or recreational establishment that operates on a seasonal basis, or

“(iii) is in such an enterprise and is a hospital, or an institution which is primarily engaged in the care of the sick, the aged, the mentally ill or defective, residing on the premises of such institution, or a school for physically or mentally handicapped or gifted children, or

“(iv) is in such an enterprise and has an annual dollar volume of sales (exclusive of excise taxes at the retail level which are separately stated) which is less than \$250,000.

A ‘retail or service establishment’ shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

“(3) any employee employed by any establishment engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment’s annual dollar volume of sales of such services is made within the State in which the establishment is located: Provided, That 75 per centum of such establishment’s annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, or communications business; or

“(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: Provided, That more than 85 per centum of such establishment’s annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or

“(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or

“(6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

“(7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or

“(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where printed and published or counties contiguous thereto; or

“(9) any employee of a street, suburban or interurban electric railway, or local trolley or motor bus carrier, not in an enterprise described in section 3(s)(2); or

“(10) any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, compressing, pasteurizing, drying, preparing in their raw or

natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or

“(11) any switchboard operator employed by an independently owned public telephone company which has not more than seven hundred and fifty stations; or

“(12) any employee of an employer engaged in the business of operating taxicabs; or

“(13) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

“(14) any employee employed as a seaman on a vessel other than an American vessel; or

“(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve; or

“(16) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his workweek in agriculture by such farmer, and (B) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1); or

“(17) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm: Provided, That no more than five employees are employed in the establishment in such operations; or

“(18) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities; or

“(19) any employee of a retail or service establishment which is primarily engaged in the business of selling automobiles, trucks, or farm implements; or

“(20) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or

“(21) any agricultural employee employed in the growing and harvesting of shade-grown tobacco who is engaged in the processing (including, but not limited to, drying, curing, fermenting, bulking,

rebulking, sorting, grading, aging, and baling) of such tobacco, prior to the stemming process, for use as cigar wrapper tobacco; or

"(22) any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables.

"(b) The provisions of section 7 shall not apply with respect to—

"(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

"(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

"(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

"(4) any employee employed in the canning, processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or

"(5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

"(6) any employee employed as a seaman; or

"(7) any employee of a street, suburban or interurban electric railway, or local trolley or motorbus carrier; or

"(8) any employee of a gasoline service station; or

"(9) any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located (A) in a city or town of one hundred thousand population or less, according to the latest available decennial census figures as compiled by the Bureau of the Census, except where such city or town is part of a standard metropolitan statistical area, as defined and designated by the Bureau of the Budget, which has a total population in excess of one hundred thousand, or (B) in a city or town of twenty-five thousand population or less, which is part of such an area but is at least 40 airline miles from the principal city in such area; or

"(10) any employee of an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if (A) the annual gross volume of sales of such enterprise is not more than \$1,000,000 exclusive of excise taxes, and (B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and (C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale; or

"(11) any employee employed as a driver or driver's helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Secretary

shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum workweek applicable to them under section 7(a)."

SEC. 10. That section 13(d) of such Act, as amended, is amended by inserting before the period at the end thereof the following: "or to any homeworker engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths)".

EMPLOYMENT OF STUDENTS

SEC. 11. Clause (1) of section 14 of such Act is amended by striking out "and" after "apprentices," and by inserting after "messages," the following: "and of full-time students outside of their school hours in any retail or service establishment: Provided, That such employment is not of the type ordinarily given to a full-time employee,".

PENALTIES AND INJUNCTION PROCEEDINGS

SEC. 12. (a) Section 16(b) of such Act is amended by adding at the end thereof a new sentence as follows: "The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection."

(b) Section 17 of such Act is amended to read as follows:

"INJUNCTION PROCEEDINGS

"SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15(a)(2) the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947)."

STUDY OF AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS AND RATES OF PAY IN HOTELS, MOTELS, RESTAURANTS, AND OTHER FOOD SERVICE ENTERPRISES

SEC. 13. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(b)(3), 7(c), and 13(a)(10), and the complex problems involving rates of pay of employees in hotels, motels, restaurants, and other food service enterprises who are exempted from the provisions of this Act, and shall submit to the second

session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

EFFECTIVE DATE

SEC. 14. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided in such amendments and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act.

And the Senate agree to the same.

ADAM C. POWELL,
JAMES ROOSEVELT,
JOHN H. DENT,

Managers on the Part of the House.

PAT MCNAMARA,
JENNINGS RANDOLPH,
BEN A. SMITH,
CLAIBORNE PELL,
QUENTIN BURDICK,
WINSTON L. PROUTY,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment strikes out all of the House bill after the enacting clause and inserts a substitute. The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill and the substitute agreed to in conference are described in the following statement, except for incidental and minor clarifying and technical changes. The instances in which the House bill and the Senate amendment are substantially the same are not discussed in this statement.

MINIMUM WAGES

Presently covered.—The House bill provides that the minimum wage for employees now covered by the Fair Labor Standards Act of 1938 (hereafter referred to as the "act") will become \$1.15 an hour on the effective date.

The Senate amendment provides that the minimum wage for presently covered employees will become \$1.15 an hour on the effective date and will become \$1.25 an hour 2 years thereafter.

The conference substitute (sec. 6(a)(1) of the act ¹) includes this provision.

Newly covered.—The House bill provides that the minimum hourly wage for newly covered employees will be \$1. The Senate amendment provides that the minimum hourly wage for newly covered employees will be \$1 an hour during the first year after the effective date, \$1.05 an hour during the second year, \$1.15 an hour during the third year, and \$1.25 an hour thereafter.

The conference substitute (sec. 6(b)(1)) provides that the minimum hourly wage for such employees will be \$1 for the first 3 years after the effective date, \$1.15 during the fourth year, and \$1.25 thereafter.

OVERTIME FOR NEWLY COVERED

The House bill does not provide overtime coverage for any newly covered employees. The Senate amendment provides no overtime

¹ References here and through this statement are to the Fair Labor Standards Act of 1938, as it would be amended by the conference substitute.

compensation for newly covered employees during the first year after the effective date. During the second year, such employees will receive overtime after 44 hours in the workweek, during the third year they will receive overtime compensation after 42 hours, and thereafter they will receive such compensation after 40 hours.

The conference substitute provides no overtime compensation for newly covered employees for 2 years after the effective date. Such employees will receive overtime compensation after 44 hours during the third year after the effective date, after 42 hours during the fourth year after such date, and after 40 hours thereafter.

RETAIL AND SERVICE ESTABLISHMENTS

Coverage.—The House bill extends minimum wage coverage to employees of retail establishments in enterprises which have five or more retail establishments and which operate such establishments in two or more States. The House bill defines "retail establishment" to exclude establishments which are primarily service establishments, and gives as examples of such establishments which are service establishments, and therefore not covered, the following: hotels, motels, restaurants (including lunch counters, cafeterias, and drive-ins), caterers, hospitals, laundry or drycleaning establishments, motion picture theaters, amusement or recreational establishments, parking lots, beauty or barber shops, and repair shops. This general extension of coverage in the House bill is qualified by certain specific exemptions which are discussed below.

The Senate amendment extends coverage to employees of retail or service enterprises meeting the following conditions: First, they must have employees engaged in commerce or in the production of goods for commerce, including handling, selling, or otherwise working on goods that have been moved in or produced for commerce. (This requirement also applies to the enterprises or establishments covered by the other categories hereafter mentioned.) Second, the enterprise must have an annual gross volume of sales of \$1 million or more (exclusive of certain excise taxes). Third, the enterprise must purchase or receive goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more. As in the case of the House bill, the general extension of coverage is qualified by certain specific exemptions which are discussed below.

The conference substitute (sec. 3(s)(1)) includes this provision and also a provision making it clear that the definition of "resale" in the act does not apply to this provision.

Exemptions.—The House bill exempts employees of retail establishments having an annual dollar volume of sales of less than \$250,000. The conference substitute (sec. 13(a)(2)(iv)) adopts a provision to the same effect, except that service establishments would also be given the advantage of the exemption.

The Senate amendment provides both a minimum wage and an overtime exemption for employees of the following: hotels, motels, restaurants, motion picture theaters, recreational establishments operating on a seasonal basis, hospitals, institutions primarily engaged in the care of the sick, the aged, or the mentally ill or defective, residing on the premises of such institution, and schools for physically or

mentally handicapped or gifted children. The House bill reaches the same result as the Senate amendment since under the bill's definitions these are service establishments and therefore not covered by the House bill. The conference substitute (sec. 13(a)(2) (ii) and (iii)) adopts the provisions of the amendment.

In addition, the House bill exempts employees employed in connection with a lunch counter, restaurant, or cafeteria in department, drug, and similar stores which qualify as retail establishments. The Senate amendment and the conference substitute (sec. 13(a)(20)) also exempts employees of retail or service establishments employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs. Clauses (2) and (20) of section 13(a) also are intended to continue the exemption for independently owned and operated restaurants in industrial plants, office buildings, Government installations, hospitals, or colleges, such as were involved in *McComb v. Factory Stores* (81 F. Supp. 403 (1948)). This exemption would extend to all employees primarily engaged in the preparation or offering of food or beverages such as dishwashers, cashiers, busboys, etc.

LAUNDRY AND DRYCLEANING ESTABLISHMENTS

The House bill provides no additional coverage for employees of laundries. The Senate amendment extends coverage to enterprises engaged in commerce or in the production of goods for commerce which have one or more establishments engaged in laundering, cleaning, or repairing clothing or fabrics if the annual gross sales of the enterprise is \$1 million or more (exclusive of certain excise taxes). This coverage provision is broadened by certain provisions of section 13(a)(3) which also have the effect of extending the coverage of the act. The conference substitute follows the House bill.

COVERAGE OF URBAN AND INTERURBAN TRANSIT ENTERPRISES

The House bill does not extend coverage to urban and interurban transit companies. The Senate amendment extends the coverage of the act to enterprises engaged in commerce or in the production of goods for commerce which are engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier. However, the Senate amendment also provides an overtime exemption for these employees. The conference substitute (sec. 3(s)(2)) changes this provision of the Senate amendment so that the new coverage will extend only to employees of such enterprises having an annual gross volume of sales of not less than \$1 million (exclusive of certain excise taxes).

COVERAGE OF CONSTRUCTION ENTERPRISES

The Senate amendment and the conference substitute (sec. 3(s)(4)) extend the act's coverage to any enterprise engaged in commerce or in the production of goods for commerce if it is engaged in the business of construction or reconstruction, or both, and the annual gross volume

of business of the enterprise is not less than \$350,000. The House bill does not contain such provisions.

COVERAGE OF GASOLINE SERVICE ESTABLISHMENTS

The House bill provides an exemption for employees of retail gasoline establishments which might otherwise be brought under the coverage of the act as retail establishments.

The Senate amendment extends the coverage of the act to gasoline service establishments which have an annual gross volume of sales of not less than \$250,000 (exclusive of certain excise taxes). However, the Senate amendment exempts all employees of gasoline service establishments from the overtime requirements of the act. The conference substitute (sec. 3(c)(5)) adopts these provisions.

ESTABLISHMENT COVERAGE

The Senate amendment, unlike the House bill, extends the coverage of the act to any establishment which has two or more employees engaged in commerce or in the production of goods for commerce if it is part of an enterprise which is not covered by one of the foregoing, and has an annual gross volume of sales of not less than \$1 million. The conference substitute (sec. 3(s)(3)) includes this provision.

EXEMPTIONS

Fish processing.—The Senate amendment, unlike the House bill, changes the exemption in the act for processing, marketing, freezing, curing, storing, packing for shipment, or distributing fish and certain other marine products from a minimum wage and overtime exemption to an overtime only exemption. The present complete exemption is retained for employees employed in catching, propagating, taking, harvesting, cultivating, or farming fish and certain other marine products, or in the first processing, canning, or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by such an employee. The conference substitute (sec. 13(a)(5) and 13(b)(4)) retains this provision.

Switchboard operators.—The Senate amendment limits the exemption in the act for switchboard operators employed in public telephone exchanges having fewer than 750 stations. Under this provision switchboard operators are exempt only if employed by an independently owned telephone company which has no more than 750 stations. The House bill did not deal with this subject. This provision of the Senate amendment is included in the proposed conference substitute (sec. 13(a)(11)).

Seamen.—The Senate amendment and the conference substitute (secs. 13(a)(14) and 13(b)(6)) change the complete exemption contained in the present law for all seamen to provide minimum wage coverage for seamen on American vessels. The overtime exemption for seamen is not affected and is continued. The Senate amendment and conference substitute also permit the computation of wages of seamen on the basis of periods longer than a workweek and provide that hours are included as hours worked only if the employee was on duty. The employee is considered to be on duty only while he is on

watch or is, at the direction of a superior officer, performing work or standing by, but he will not be considered to be on duty during off-duty periods provided pursuant to his employment agreement. There are no comparable provisions in the House bill.

Livestock auctions.—The Senate bill provides a minimum wage and overtime exemption for any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if the employee is primarily employed during his workweek in agriculture by such farmer, and is paid for his employment in connection with such livestock auction operations at not less than the minimum wage applicable to him. The House bill has no comparable provision. This exemption is included in the conference substitute (sec. 13(a)(16)).

Country elevators.—The Senate amendment and the conference substitute (sec. 13(a)(17)) provide a minimum wage and overtime exemption for any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if not more than five employees are employed in the establishment in such operations. The House bill contains no comparable provision.

Cotton ginning.—The Senate amendment provides a minimum wage and overtime exemption for any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities. The House bill has no comparable provision. The conference substitute (sec. 13(a)(18)) contains this exemption.

Auto and farm implement dealers.—The House bill provides an exemption for employees of establishments primarily engaged in selling automobiles, trucks, or farm implements which might otherwise be brought under the coverage of the act as retail establishments. The Senate amendment covers such dealers on the same basis as other retail or service establishments, but exempts them from the overtime requirements of the act. The substitute agreed upon in conference (sec. 13(a)(19)) follows the provisions of the House bill.

Shade-grown tobacco.—The House bill provides that the term "agriculture" includes the processing of shade-grown tobacco, for use as cigar wrapper tobacco by agricultural employees employed in the growing and harvesting of such tobacco, which processing shall include, but not be limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling, prior to the stemming process. The Senate amendment contains no comparable provision. The conference substitute keeps the substance of this provision of the House bill, but places it in the exemptions section of the act (sec. 13(a)(21)) providing an exemption from both minimum wage and overtime.

Fruit and vegetable transportation.—The House bill contains a provision to the effect that the term "agriculture" includes, in the case of fruits and vegetables, the transportation and preparation for transportation, whether or not performed by the farmer, of the commodity from the farm to a place of first processing or first marketing within

the same State, and the transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of the commodity. The Senate amendment contains no comparable provision. The substitute agreed upon in conference (sec. 13(a)(22)) includes the substance of this provision but places it in the exemptions section of the act (sec. 13(a)(22)) thus providing an exemption from minimum wage and overtime.

It is not intended by the committee of conference to change by this exemption or by the exemption for employees engaged in the named operations on shade-grown tobacco the application of the act to any other employees. Nor is it intended that there be any implication of disagreement by the conference committee with the principles and tests governing the application of the present agricultural exemption as enunciated by the courts.

Certain broadcasters.—The House bill provides an overtime exemption for announcers, news editors, and chief engineers employed by a radio or television station the major studio of which is located in a city or town having a population of at least 100,000, unless the city or town is part of a standard metropolitan statistical area which has a total population in excess of 100,000. The Senate amendment contains a provision which is substantially the same except that the population figure of 50,000 is substituted, and an additional exemption is provided for stations located in such areas, if the station's major studio is located in a city which has a population of not more than 25,000 and is more than 40 miles from the principal city in the area. The conference substitute (sec. 13(b)(9)) adopts the House bill, with the additional exemption referred to above.

Bulk distribution of petroleum.—The Senate amendment and the conference substitute (sec. 13(b)(10)) provide an overtime exemption for any employee of an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if the annual gross volume of sales of the enterprise is not more than \$1 million, exclusive of excise taxes, and more than 75 percent of the enterprise's sales are made within its State, and if not more than 25 percent of its sales are to customers who are engaged in the bulk distribution of such products for resale. The House bill contains no comparable provision.

Drivers and drivers' helpers.—The present act contains an overtime exemption, in section 13(b)(1), for drivers, drivers' helpers, loaders, and mechanics with respect to whom the Interstate Commerce Commission has power to regulate maximum hours of service. While this exemption applies to many drivers and drivers' helpers employed on a trip rate or similar basis, there are some employees engaged in such activities whose employment is not within the ICC's jurisdiction.

The Senate amendment does not change this exemption. However, it provides, in a new section 13(b)(11), an overtime exemption applicable to an employee employed as a driver or driver's helper on a trip rate or similar basis making local deliveries. An employee so employed will be exempt from the act's overtime provisions if the Secretary of Labor finds that the agreement establishing such basis of employment has the general purpose and effect of reducing the hours worked by the employees to, or below, the maximum workweek

applicable to them under the act. The House bill contains no comparable provision. The conference substitute (sec. 13(b)(11)) contains this provision.

Holly wreaths.—The Senate amendment and the conference substitute (sec. 13(d)) provide an exemption from the minimum wage, overtime, and child labor provisions of the act for any homemaker engaged in the making of wreaths composed principally of natural holly, pine, cedar, and other evergreens (including harvesting of products used in making such wreaths). The House bill has no comparable provision.

Commission employees.—The Senate amendment provides an exemption from the overtime provisions of the act for any employee in a retail or service establishment if the employee's regular rate of pay exceeds $1\frac{1}{2}$ times the minimum hourly rate applicable to him and more than half his compensation for a representative period represents commissions on goods or services. The House bill does not deal with this subject. The conference substitute (sec. 7(h)) adopts this provision.

OTHER PROVISIONS

Foreign competition.—The House bill provides that whenever the Secretary of Labor has reason to believe that in an industry under this act the competition of foreign producers in the U.S. markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. He is required to make a full report of his findings and determinations to the President and Congress. The Senate amendment requires the same investigations as the House bill, but requires a report only where the Secretary determines that increased unemployment has in fact resulted, or is in fact likely to result, from the foreign competition with respect to which the investigation is made. The Senate amendment also requires inclusion in the report of pertinent information on the increased employment resulting from additional exports in any industry under the act. The substitute agreed upon in conference (sec. 7(e)) is the same as the Senate amendment.

Board and lodging.—The Senate amendment modifies the definition of "wage" in section 3(m) of the act to give the Secretary authority to determine the fair value of facilities furnished by the employer on the basis of average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. The House bill has no comparable provision. The conference substitute (sec. 3(m)) includes this provision.

The House bill provides that the cost of board, lodging, and other facilities will not be included as part of the wage paid an employee to the extent it is excluded therefrom under the terms of an individual contract or collective-bargaining agreement. The Senate amendment was the same, except that it did not permit the exclusion of these costs by reason of the terms of individual contracts. The conference substitute (sec. 3(m)) is the same as the Senate amendment.

Enforcement.—The committee of conference adopted provisions (secs. 16(b) and (17)) contained in the Senate amendment but not in the House bill, dealing with enforcement of the minimum wage and

overtime pay requirements of the act. Under these provisions, the Federal district courts would be authorized, in injunction actions brought by the Secretary of Labor, to issue court orders requiring employers to cease unlawful withholding of minimum wages and overtime compensation found by the court to be due to employees under the act. In such actions only the minimum wages and overtime pay found due under the act may be awarded and no award shall be made of any additional amount as liquidated damages. The bringing of an action by the Secretary seeking such relief with respect to such compensation owing to any employee would, after filing of the complaint in the Secretary's action, preclude such employee from becoming a party plaintiff in a private action to recover the amounts due and an additional equal amount as liquidated damages. The filing of the Secretary's complaint against an employer would not, however, operate to terminate any employee's right to maintain such a private suit to which he had become a party plaintiff before the Secretary's action. Nor would the amendment change the present authority of the courts to order reimbursement for losses incurred by an employee as a result of a discriminatory discharge in violation of section 15(a)(3) of the act.

Study of certain exemptions.—The House bill requires the Secretary to study the complicated system of exemptions now available under the act for handling and processing of agricultural products and to submit to the 2d session of the 87th Congress a special report containing the results of the study and information, data, and recommendations for further legislation designed to simplify and remove inequities in the application of such exemptions. The Senate amendment contains a provision which is like the House bill, except that it adds to the subjects to be studied, the complex problems involving rates of pay of employees in hotels, motels, restaurants, and other food service enterprises which are exempt from the provisions of the act. The substitute agreed upon in conference adopts the House bill and the additional study called for under the Senate amendment.

Minimum wages in Puerto Rico and the Virgin Islands.—The Senate amendment contains provisions under which each of the rates applicable to currently covered employees in any industry in Puerto Rico or the Virgin Islands will be increased by 15 percent, the same increase as will be applicable to mainland industries, unless an appeal is made. Two years after the first increase in the wage rate for any industry has become effective, the rate will be further increased by an amount equal to 10 percent of the rate in effect at the time of enactment of the amendments, but not in excess of \$1.15 during the first 2 years after the effective date of the act, or \$1.25 thereafter. However, no rate applicable in these islands which has been in effect for less than 1 year will be increased until a full year has elapsed.

Either of the percentage increases referred to above may be superseded upon the basis of the recommendations of a review committee appointed by the Secretary of Labor under procedures prescribed in the Senate amendment upon application by employers employing a majority of employees in an industry. The application must be accompanied by financial and other data as required by the Secretary. The Senate amendment makes provision for appointment of a review committee if, on the basis of such financial and other data, the Secretary has reasonable cause to believe that such percentage increase

would substantially curtail employment in the industry. A review committee may recommend a rate or rates in lieu of the applicable percentage increase, not in excess of \$1.15 during the first 2 years after the effective date of the act, or \$1.25 thereafter. In the event a wage order is not issued pursuant to the recommendations of such review committee prior to the dates the percentage increases are scheduled to become effective, the percentage increases will take effect, except with respect to employees of an employer who (1) filed an application for the review committee and (2) provided an undertaking with sureties satisfactory to the Secretary to cover the difference between the wages his employees actually received and the wages to which they become entitled. It is further provided that no special industry committee shall hold any hearing within 1 year after a minimum rate or rates for such industry shall have been recommended to the Secretary by a review committee.

Provision is also made for setting the initial minimum rate for employees on the islands to whom protection will be newly extended. Provision is made for appointment, within 60 days after the date of enactment, of a special industry committee to determine the rate or rates appropriate for the newly protected workers. Such rate or rates will become effective on the effective date of the wage order issued pursuant to the industry committee's recommendation, but not before 60 days after the effective date of the amendments. Subsequently, each rate will be subject to review at least once during each biennial period.

The substitute agreed upon in conference (sec. 6(c)) includes these provisions.

Student workers.—The House bill authorizes the Secretary to permit employment of full-time students outside their school hours at sub-minimum wages, subject to the same standards and restrictions applicable in the case of learners, apprentices, and messengers. The Senate amendment is similar to the House bill, but provides that such students may be employed in retail or service establishments in positions ordinarily given full-time employees. The conference substitute (sec. 14) adopts the provisions of the Senate amendment.

ADAM C. POWELL,
JAMES ROOSEVELT,
JOHN H. DENT,

Managers on the Part of the House.





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PROCEEDINGS AND DEBATES OF THE 87th CONGRESS, FIRST SESSION

Vol. 107

WASHINGTON, TUESDAY, MAY 2, 1961

No. 73

Senate

The Senate was not in session today. Its next meeting will be held on Wednesday, May 3, 1961, at 11 o'clock a.m.

House of Representatives

TUESDAY, MAY 2, 1961

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

St. Paul's affirmation concerning God, Acts 17: 28: *For in Him we live, and move, and have our being.*

Our kind Heavenly Father, who art daily making us the beneficiaries of Thy bountiful providence, inspire us to believe that Thou art deeply concerned about us in these times of world tragedy.

May we be more fully aware of how dependent we are upon Thee and how able and willing Thou art to supply our many needs and gird us with insight and strength to meet life's duties and demands.

Grant that Thy continuing care and goodness may evoke within us the spirit of humility and gratitude and give us the assurance that where Thou dost guide Thou wilt also provide.

Help us to stand in the noble succession and sublime tradition of those who, in every generation, have put themselves on the side of faith and yielded to its appeals and pressures when besieged and harassed by moods of fear and anguish.

Hear us in Christ's name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. McGown, one of its clerks, announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 1748. An act to provide for the increased distribution of the CONGRESSIONAL RECORD to the Federal judiciary.

S.J. Res. 24. Joint resolution designating the fourth Sunday in September of each year as "Interfaith Day."

S.J. Res. 34. Joint resolution designating the week of October 9-15, 1961, as National American Guild of Variety Artists Week.

S.J. Res. 65. Joint resolution designating the week of May 14-20, 1961, as Police Week and designating May 15, 1961, as Peace Officers Memorial Day.

S.J. Res. 68. Joint resolution providing for the designation of the week commencing October 1, 1961, as "National Public Works Week."

CORRECTION OF RECORD

Mr. KORNEGAY. Mr. Speaker, on Tuesday, April 18, I made a statement on the floor of the House with regard to the plight of the textile industry. On page 5816 of the CONGRESSIONAL RECORD for that date, my statement should be corrected to read, from the middle of line 14 through line 18, as follows:

The country's largest denim plant, the White Oak division of Cone Mills Corp., is located in my district, and the country's largest producer of work clothing, Blue Bell, Inc., is also located there.

I ask unanimous consent to have the permanent RECORD so corrected.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

FAIR LABOR STANDARDS AMENDMENTS OF 1961

Mr. ROOSEVELT submitted the following conference report and statement on the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the

production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 327)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3935), to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "That this Act may be cited as the 'Fair Labor Standards Amendments of 1961'."

DEFINITIONS

"SEC. 2. (a) Paragraph (m) of section 3 of the Fair Labor Standards Act of 1938, as amended, defining the term 'wage', is amended by inserting before the period at the end thereof a colon and the following: 'Provided, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee.*'"

"(b) Paragraph (n) of section 3 of such Act is amended by inserting immediately before 'shall not' the following 'except as used in subsection (s) (1).'

"(c) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs:

"(p) 'American vessel' includes any vessel which is documented or numbered under the laws of the United States.

"(q) 'Secretary' means the Secretary of Labor.

"(r) 'Enterprise' means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That, within the meaning of this subsection, a retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not necessarily limited to, an agreement, (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

"(s) 'Enterprise engaged in commerce or in the production of goods for commerce' means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

"(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated and if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more;

"(2) any such enterprise which is engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

"(3) any establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;

"(4) any such enterprise which is engaged in the business of construction or reconstruction, or both, if the annual gross volume from the business of such enterprise is not less than \$350,000;

"(5) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000, exclusive of excise taxes at the retail level which are separately stated:

Provided, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for

commerce, or a part of an enterprise engaged in commerce or in the production of goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner.'

"INVESTIGATIONS OF EFFECTS ON EMPLOYMENT OF FOREIGN COMPETITION"

"SEC. 3. Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in fact resulted, or is in fact likely to result, from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress: *Provided*, That he may also include in such report information on the increased employment resulting from additional exports in any industry under this Act as he may determine to be pertinent to such report.'

"SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS"

"SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting after the words 'production of goods for commerce' wherever they appear, the following: 'or employed in any enterprise engaged in commerce or in the production of goods for commerce'.

"MINIMUM WAGES"

"SEC. 5. (a) (1) Section 6(a) of such Act is amended by inserting after the word 'who' in the portion thereof preceding paragraph (1), the words 'in any workweek'.

"(2) Paragraph (1) of section 6(a) of such Act is amended to read as follows:

"(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section.'

"(3) The first sentence of paragraph (3) of section 6(a) of such Act is amended to read as follows:

"(3) if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time.'

"(b) Subsection (b) of section 6 of such Act is amended to read as follows:

"(b) Every employer shall pay to each of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section (3)(s)(1), (2), or (4) or by an establishment described in section (3)(s)(3) or (5), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at rates—

"(1) not less than \$1 an hour during the first three years from the effective date of

such amendments; not less than \$1.15 an hour during the fourth year from such date; and not less than the rate effective under paragraph (1) of subsection (a) thereafter;

"(2) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement).'

"(c) Subsection (c) of section 6 of such Act is amended to read as follows:

"(c) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5: *Provided*, That (1) the following rates shall apply to any such employee to whom the rate or rates prescribed by subsection (a) would otherwise apply:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, increased by 15 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1961 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Beginning two years after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 10 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

"(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1961 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will sub-

stantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

"(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

"(2) In the case of any such employee to whom subsection (b) would otherwise apply, the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1961.

"(3) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee."

"MAXIMUM HOURS

"SEC. 6. (a) Subsection (a) of section 7 of such Act is amended by designating such subsection as subsection (a)(1), by inserting after the word 'who' the words 'in any workweek', and by striking out the period at the end thereof and inserting a semicolon and the word 'and' in lieu thereof and adding the following new paragraph (2):

"(2) No employer shall employ any of his employees who in any workweek (i) is em-

ployed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s)(1) or (4), or by an establishment described in section 3(s)(3), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this subsection, or (ii) is brought within the purview of this subsection by the amendments made to section 13 of this Act by the Fair Labor Standards Amendments of 1961—

"(A) for a workweek longer than forty-four hours during the third year from the effective date of the Fair Labor Standards Amendments of 1961,

"(B) for a workweek longer than forty-two hours during the fourth year from such date,

"(C) for a workweek longer than forty hours after the expiration of the fourth year from such date, unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."

"(b) Subsection (b) of section 7 of such Act is amended by striking out 'in excess of forty hours in the workweek' in paragraph (2) and inserting in lieu thereof the following: 'in excess of the maximum workweek applicable to such employee under subsection (a)'."

"(c) Paragraph (5) of subsection (d) of section 7 of such Act is amended by striking out 'forty in a workweek' and inserting in lieu thereof the following: 'in excess of the maximum workweek applicable to such employee under subsection (a)'."

"(d) Paragraph (7) of subsection (d) of section 7 of such Act is amended by striking out 'forty hours' and inserting in lieu thereof the following: 'the maximum workweek applicable to such employee under subsection (a)'."

"(e) Subsection (e) of section 7 of such Act is amended (1) by striking out 'forty hours' and inserting in lieu thereof 'the maximum workweek applicable to such employee under subsection (a)', (2) by striking out 'section 6(a)' and inserting in lieu thereof 'subsection (a) or (b) of section 6 (whichever may be applicable)', and (3) by striking out 'forty in any' and inserting in lieu thereof 'such maximum'."

"(f) Subsection (f) of section 7 of such Act is amended by striking out 'forty hours' both times it appears therein and inserting in lieu thereof the following: 'the maximum workweek applicable to such employee under such subsection'."

"(g) Section 7 of such Act is amended by adding at the end thereof the following new subsection:

"(h) No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period (not less than one month) represents commissions on goods or services."

"WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

"SEC. 7. Subsection (a) of section 8 of such Act is amended by inserting after the word 'industries' where it appears in the first sentence the words 'or enterprise'; and by inserting after the words 'production of goods for commerce' where they appear in the second sentence the following: 'or in any enterprise engaged in commerce or in the production of goods for commerce'."

"CHILD LABOR PROVISIONS

"SEC. 8. Subsection (c) of section 12 of such Act is amended by striking out the

period at the end thereof and inserting in lieu thereof the following: 'or any enterprise engaged in commerce or in the production of goods for commerce.'

"EXEMPTIONS

"SEC. 9. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

"(a) The provisions of sections 6 and 7 shall not apply with respect to—

"(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

"(2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, if such establishment—

"(i) is not in an enterprise described in section 3(s), or

"(ii) is in such an enterprise and is a hotel, motel, restaurant, or motion picture theater; or is an amusement or recreational establishment that operates on a seasonal basis; or

"(iii) is in such an enterprise and is a hospital, or an institution which is primarily engaged in the care of the sick, the aged, the mentally ill or defective, residing on the premises of such institution, or a school for physically or mentally handicapped or gifted children; or

"(iv) is in such an enterprise and has an annual dollar volume of sales (exclusive of excise taxes at the retail level which are separately stated) which is less than \$250,000.

A 'retail or service establishment' shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

"(3) any employee employed by any establishment engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment's annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, or communications business; or

"(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or

"(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning

or packing such marine products at sea as an incident to, or in conjunction with such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or

"(6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

"(7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or

"(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where printed and published or counties contiguous thereto; or

"(9) any employee of a street, suburban or interurban electric railway, or local trolley or motor bus carrier, not in an enterprise described in section 3(s) (2); or

"(10) any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or

"(11) any switchboard operator employed by an independently owned public telephone company which has not more than seven hundred and fifty stations; or

"(12) any employee of an employer engaged in the business of operating taxicabs; or

"(13) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

"(14) any employee employed as a seaman on a vessel other than an American vessel; or

"(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve; or

"(16) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his workweek in agriculture by such farmer, and (B) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a) (1); or

"(17) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm: *Provided*, That no more than five employees are employed in the establishment in such operations; or

"(18) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities; or

"(19) any employee of a retail or service establishment which is primarily engaged in the business of selling automobiles, trucks, or farm implements; or

"(20) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or

"(21) any agricultural employee employed in the growing and harvesting of shade-grown tobacco who is engaged in the processing (including, but not limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling) of such tobacco, prior to the stemming process, for use as cigar wrapper tobacco; or

"(22) any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables.

"(b) The provisions of section 7 shall not apply with respect to—

"(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

"(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

"(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

"(4) any employee employed in the canning, processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or

"(5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

"(6) any employee employed as a seaman; or

"(7) any employee of a street, suburban or interurban electric railway, or local trolley or motorbus carrier; or

"(8) any employee of a gasoline service station; or

"(9) any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located (A) in a city or town of one hundred thousand population or less, according to the latest available decennial census figures as compiled by the Bureau of the Census, except where such city or town is part of a standard metropolitan statistical area, as defined and designated by the Bureau of the Budget, which has a total population in excess of one hundred thousand, or (B) in a city or town of twenty-five thousand population or less, which is part of such an area but is at least 40 airline miles from the principal city in such area; or

"(10) any employee of an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if (A) the annual gross volume of sales of such enterprise is not more than \$1,000,000 exclusive of excise taxes, and (B)

more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and (C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale; or

"(11) any employee employed as a driver or driver's helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Secretary shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum workweek applicable to them under section 7(a).'

"Sec. 10. That section 13(d) of such Act, as amended, is amended by inserting before the period at the end thereof the following: 'or to any homemaker engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths).'

"EMPLOYMENT OF STUDENTS

"Sec. 11. Clause (1) of section 14 of such Act is amended by striking out 'and' after 'apprentices,' and by inserting after 'messages,' the following: 'and of full-time students outside of their school hours in any retail or service establishment: *Provided*, That such employment is not of the type ordinarily given to a full-time employee.'

"PENALTIES AND INJUNCTION PROCEEDINGS

"Sec. 12. (a) Section 16(b) of such Act is amended by adding at the end thereof a new sentence as follows: 'The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff of any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection.'

"(b) Section 17 of such Act is amended to read as follows:

"INJUNCTION PROCEEDINGS

"Sec. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15(a) (2) the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947).'

"STUDY OF AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS AND RATES OF PAY IN HOTELS, MOTELS, RESTAURANTS, AND OTHER FOOD SERVICE ENTERPRISES

"Sec. 13. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(b) (3), 7(c), and 13(a) (10), and the complex problems involving rates of pay of employees in hotels, motels, restaurants, and other food service enterprises who are exempted from the provisions of this Act, and shall submit to the second session of the Eighty-seventh Con-

gress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

"EFFECTIVE DATE"

"SEC. 14. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided in such amendments and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act."

And the Senate agree to the same.

ADAM C. POWELL,
JAMES ROOSEVELT,
JOHN H. DENT,

Managers on the Part of the House.

PAT McNAMARA,
JENNINGS RANDOLPH,
BEN A. SMITH,
CLAIBORNE PELL,
QUENTIN BURDICK,
WINSTON L. PROUTY,

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment strikes out all of the House bill after the enacting clause and inserts a substitute. The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill and the substitute agreed to in conference are described in the following statement, except for incidental and minor clarifying and technical changes. The instances in which the House bill and the Senate amendment are substantially the same are not discussed in this statement.

MINIMUM WAGES

Presently covered: The House bill provides that the minimum wage for employees now covered by the Fair Labor Standards Act of 1938 (hereafter referred to as the "act") will become \$1.15 an hour on the effective date.

The Senate amendment provides that the minimum wage for presently covered employees will become \$1.15 an hour on the effective date and will become \$1.25 an hour 2 years thereafter.

The conference substitute (sec. 6(a)(1) of the act¹) includes this provision.

Newly covered: The House bill provides that the minimum hourly wage for newly covered employees will be \$1. The Senate amendment provides that the minimum hourly wage for newly covered employees will be \$1 an hour during the first year after the

effective date, \$1.05 an hour during the second year, \$1.15 an hour during the third year, and \$1.25 an hour thereafter.

The conference substitute (sec. 6(b)(1)) provides that the minimum hourly wage for such employees will be \$1 for the first 3 years after the effective date, \$1.15 during the fourth year, and \$1.25 thereafter.

OVERTIME FOR NEWLY COVERED

The House bill does not provide overtime coverage for any newly covered employees. The Senate amendment provides no overtime compensation for newly covered employees during the first year after the effective date. During the second year, such employees will receive overtime after 44 hours in the workweek, during the third year they will receive overtime compensation after 42 hours, and thereafter they will receive such compensation after 40 hours.

The conference substitute provides no overtime compensation for newly covered employees for 2 years after the effective date. Such employees will receive overtime compensation after 44 hours during the third year after the effective date, after 42 hours during the fourth year after such date, and after 40 hours thereafter.

RETAIL AND SERVICE ESTABLISHMENTS

Coverage: The House bill extends minimum wage coverage to employees of retail establishments in enterprises which have five or more retail establishments and which operate such establishments in two or more States. The House bill defines "retail establishment" to exclude establishments which are primarily service establishments, and gives as examples of such establishments which are service establishments, and therefore not covered, the following: hotels, motels, restaurants (including lunch counters, cafeterias, and drive-ins), caterers, hospitals, laundry or drycleaning establishments, motion picture theaters, amusement or recreational establishments, parking lots, beauty or barber shops, and repair shops. This general extension of coverage in the House bill is qualified by certain specific exemptions which are discussed below.

The Senate amendment extends coverage to employees of retail or service enterprises meeting the following conditions: First, they must have employees engaged in commerce or in the production of goods for commerce, including handling, selling, or otherwise working on goods that have been moved in or produced for commerce. (This requirement also applies to the enterprises or establishments covered by the other categories hereafter mentioned.) Second, the enterprise must have an annual gross volume of sales of \$1 million or more (exclusive of certain excise taxes). Third, the enterprise must purchase or receive goods for resale (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more. As in the case of the House bill, the general extension of coverage is qualified by certain specific exemptions which are discussed below.

The conference substitute (sec. 3(s)(1)) includes this provision and also a provision making it clear that the definition of "resale" in the Act does not apply to this provision.

Exemptions: The House bill exempts employees of retail establishments having an annual dollar volume of sales of less than \$250,000. The conference substitute (sec. 13(a)(2)(iv)) adopts a provision to the same effect, except that service establishments would also be given the advantage of the exemption.

The Senate amendment provides both a minimum wage and an overtime exemption for employees of the following: hotels, motels, restaurants, motion picture theaters, recreational establishments operating on a

seasonal basis, hospitals, institutions primarily engaged in the care of the sick, the aged, or the mentally ill or defective, residing on the premises of such institution, and schools for physically or mentally handicapped or gifted children. The House bill reaches the same result as the Senate amendment since under the bill's definitions these are service establishments and therefore not covered by the House bill. The conference substitute (sec. 13(a)(2)(ii) and (iii)) adopts the provisions of the amendment.

In addition, the House bill exempts employees employed in connection with a lunch counter, restaurant, or cafeteria in department, drug, and similar stores which qualify as retail establishments. The Senate amendment and the conference substitute (sec. 13(a)(20)) also exempts employees of retail or service establishments employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs. Clauses (2) and (20) of section 13(a) also are intended to continue the exemption for independently owned and operated restaurants in industrial plants, office buildings, Government installations, hospitals, or colleges, such as were involved in *McComb v. Factory Stores* (81 F. Supp. 403 (1948)). This exemption would extend to all employees primarily engaged in the preparation or offering of food or beverages such as dishwashers, cashiers, busboys, etc.

LAUNDRY AND DRY CLEANING ESTABLISHMENTS

The House bill provides no additional coverage for employees of laundries. The Senate amendment extends coverage to enterprises engaged in commerce or in the production of goods for commerce which have one or more establishments engaged in laundering, cleaning, or repairing clothing or fabrics if the annual gross sales of the enterprise is \$1 million or more (exclusive of certain excise taxes). This coverage provision is broadened by certain provisions of section 13(a)(3) which also have the effect of extending the coverage of the act. The conference substitute follows the House bill.

COVERAGE OF URBAN AND INTERURBAN TRANSIT ENTERPRISES

The House bill does not extend coverage to urban and interurban transit companies. The Senate amendment extends the coverage of the act to enterprises engaged in commerce or in the production of goods for commerce which are engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier. However, the Senate amendment also provides an overtime exemption for these employees. The conference substitute (sec. 3(s)(2)) changes this provision of the Senate amendment so that the new coverage will extend only to employees of such enterprises having an annual gross volume of sales of not less than \$1 million (exclusive of certain excise taxes).

COVERAGE OF CONSTRUCTION ENTERPRISES

The Senate amendment and the conference substitute (sec. 3(s)(4)) extend the act's coverage to any enterprise engaged in commerce or in the production of goods for commerce if it is engaged in the business of construction or reconstruction, or both, and the annual gross volume of business of the enterprise is not less than \$350,000. The House bill does not contain such provisions.

COVERAGE OF GASOLINE SERVICE ESTABLISHMENTS

The House bill provides an exemption for employees of retail gasoline establishments which might otherwise be brought under the coverage of the act as retail establishments.

¹ References here and through this statement are to the Fair Labor Standards Act of 1938, as it would be amended by the conference substitute.

The Senate amendment extends the coverage of the act to gasoline service establishments which have an annual gross volume of sales of not less than \$250,000 (exclusive of certain excise taxes). However, the Senate amendment exempts all employees of gasoline service establishments from the overtime requirements of the act. The conference substitute (sec. 3(c)(5)) adopts these provisions.

ESTABLISHMENT COVERAGE

The Senate amendment, unlike the House bill, extends the coverage of the act to any establishment which has two or more employees engaged in commerce or in the production of goods for commerce if it is part of an enterprise which is not covered by one of the foregoing, and has an annual gross volume of sales of not less than \$1 million. The conference substitute (sec. 3(s)(3)) includes this provision.

EXEMPTIONS

Fish processing: The Senate amendment, unlike the House bill, changes the exemption in the act for processing, marketing, freezing, curing, storing, packing for shipment, or distributing fish and certain other marine products from a minimum wage and overtime exemption to an overtime-only exemption. The present complete exemption is retained for employees employed in catching, propagating, taking, harvesting, cultivating, or farming, fish and certain other marine products, or in the first processing, canning, or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by such an employee. The conference substitute (sec. 13(a)(5) and 13(b)(4)) retains this provision.

Switchboard operators: The Senate amendment limits the exemption in the act for switchboard operators employed in public telephone exchanges having fewer than 750 stations. Under this provision switchboard operators are exempt only if employed by an independently owned telephone company which has no more than 750 stations. The House bill did not deal with this subject. This provision of the Senate amendment is included in the proposed conference substitute (sec. 13(a)(11)).

Seamen: The Senate amendment and the conference substitute (sec. 13(a)(14) and 13(b)(6)) change the complete exemption contained in the present law for all seamen to provide minimum wage coverage for seamen on American vessels. The overtime exemption for seamen is not affected and is continued. The Senate amendment and conference substitute also permit the computation of wages of seamen on the basis of periods longer than a workweek and provide that hours are included as hours worked only if the employee was on duty. The employee is considered to be on duty only while he is on watch or is, at the direction of a superior officer, performing work or standing by, but he will not be considered to be on duty during off-duty periods provided pursuant to his employment agreement. There are no comparable provisions in the House bill.

Livestock auctions: The Senate bill provides a minimum-wage and overtime exemption for any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if the employee is primarily employed during his workweek in agriculture by such farmer, and is paid for his employment in connection with such livestock auction operations at not less than

the minimum wage applicable to him. The House bill has no comparable provision. This exemption is included in the conference substitute (sec. 13(a)(16)).

Country elevators: The Senate amendment and the conference substitute (sec. 13(a)(17)) provide a minimum-wage and overtime exemption for any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if not more than five employees are employed in the establishment in such operations. The House bill contains no comparable provision.

Cotton ginning: The Senate amendment provides a minimum-wage and overtime exemption for any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities. The House bill has no comparable provision. The conference substitute (sec. 13(a)(18)) contains this exemption.

Auto and farm implement dealers: The House bill provides an exemption for employees of establishments primarily engaged in selling automobiles, trucks, or farm implements which might otherwise be brought under the coverage of the act as retail establishments. The Senate amendment covers such dealers on the same basis as other retail or service establishments, but exempts them from the overtime requirements of the act. The substitute agreed upon in conference (sec. 13(a)(19)) follows the provisions of the House bill.

Shade-grown tobacco: The House bill provides that the term "agriculture" includes the processing of shade-grown tobacco, for use as cigar wrapper tobacco by agricultural employees employed in the growing and harvesting of such tobacco, which processing shall include but not be limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling, prior to the stemming process. The Senate amendment contains no comparable provision. The conference substitute keeps the substance of this provision of the House bill, but places it in the exemptions section of the act (sec. 13(a)(21)) providing an exemption from both minimum wage and overtime.

Fruit and vegetable transportation: The House bill contains a provision to the effect that the term "agriculture" includes, in the case of fruits and vegetables, the transportation and preparation for transportation, whether or not performed by the farmer, of the commodity from the farm to a place of first processing or first marketing within the same State, and the transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of the commodity. The Senate amendment contains no comparable provision. The substitute agreed upon in conference (sec. 13(a)(22)) includes the substance of this provision but places it in the exemptions section of the act (sec. 13(a)(22)) thus providing an exemption from minimum wage and overtime.

It is not intended by the committee of conference to change by this exemption or by the exemption for employees engaged in the named operations on shade-grown tobacco the application of the act to any other employees. Nor is it intended that there be any implication of disagreement by the conference committee with the principles and tests governing the application of the present agricultural exemption as enunciated by the courts.

Certain broadcasters: The House bill provides an overtime exemption for announcers, news editors, and chief engineers employed by a radio or television station the major

studio of which is located in a city or town having a population of at least 100,000, unless the city or town is part of a standard metropolitan statistical area which has a total population in excess of 100,000. The Senate amendment contains a provision which is substantially the same except that the population figure of 50,000 is substituted, and an additional exemption is provided for stations located in such areas, if the station's major studio is located in a city which has a population of not more than 25,000 and is more than 40 miles from the principal city in the area. The conference substitute (sec. 13(b)(9)) adopts the House bill, with the additional exemption referred to above.

Bulk distribution of petroleum: The Senate amendment and the conference substitute (sec. 13(b)(10)) provide an overtime exemption for any employee of an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if the annual gross volume of sales of the enterprise is not more than \$1 million, exclusive of excise taxes, and more than 75 percent of the enterprise's sales are made within its State, and if not more than 25 percent of its sales are to customers who are engaged in the bulk distribution of such products for resale. The House bill contains no comparable provision.

Drivers and drivers' helpers: The present act contains an overtime exemption, in section 13(b)(1), for drivers, drivers' helpers, loaders, and mechanics with respect to whom the Interstate Commerce Commission has power to regulate maximum hours of service. While this exemption applies to many drivers and drivers' helpers employed on a trip rate or similar basis, there are some employees engaged in such activities whose employment is not within the ICC's jurisdiction.

The Senate amendment does not change this exemption. However, it provides, in a new section 13(b)(11), an overtime exemption applicable to an employee employed as a driver or driver's helper on a trip rate or similar basis making local deliveries. An employee so employed will be exempt from the act's overtime provisions if the Secretary of Labor finds that the agreement establishing such basis of employment has the general purpose and effect of reducing the hours worked by the employees to, or below, the maximum workweek applicable to them under the act. The House bill contains no comparable provision. The conference substitute (sec. 13(b)(11)) contains this provision.

Holly wreaths: The Senate amendment and the conference substitute (sec. 13(d)) provide an exemption from the minimum wage, overtime, and child labor provisions of the act for any homemaker engaged in the making of wreaths composed principally of natural holly, pine, cedar, and other evergreens (including harvesting of products used in making such wreaths). The House bill has no comparable provision.

Commission employees: The Senate amendment provides an exemption from the overtime provisions of the act for any employee in a retail or service establishment if the employee's regular rate of pay exceeds $1\frac{1}{2}$ times the minimum hourly rate applicable to him and more than half his compensation for a representative period represents commissions on goods or services. The House bill does not deal with this subject. The conference substitute (sec. 7(h)) adopts this provision.

OTHER PROVISIONS

Foreign competition: The House bill provides that whenever the Secretary of Labor has reason to believe that in an industry under this act the competition of foreign pro-

ducers in the United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. He is required to make a full report of his findings and determinations to the President and Congress. The Senate amendment requires the same investigations as the House bill, but requires a report only where the Secretary determines that increased unemployment has in fact resulted, or is in fact likely to result from the foreign competition with respect to which the investigation is made. The Senate amendment also requires inclusion in the report of pertinent information on the increased employment resulting from additional exports in any industry under the act. The substitute agreed upon in conference (sec. 7(e)) is the same as the Senate amendment.

Board and lodging: The Senate amendment modifies the definition of "wage" in section 3(m) of the act to give the Secretary authority to determine the fair value of facilities furnished by the employer on the basis of average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. The House bill has no comparable provision. The conference substitute (sec. 3(m)) includes this provision.

The House bill provides that the cost of board, lodging, and other facilities will not be included as part of the wage paid an employee to the extent it is excluded therefrom under the terms of an individual contract or collective bargaining agreement. The Senate amendment was the same, except that it did not permit the exclusion of these costs by reason of the terms of individual contracts. The conference substitute (sec. 3(m)) is the same as the Senate amendment.

Enforcement: The committee of conference adopted provisions (secs. 16(b) and (17)) contained in the Senate amendment but not in the House bill, dealing with enforcement of the minimum wage and overtime pay requirements of the act. Under these provisions, the Federal district courts would be authorized, in injunction actions brought by the Secretary of Labor, to issue court orders requiring employers to cease unlawful withholding of minimum wages and overtime compensation found by the court to be due to employees under the act. In such actions only the minimum wages and overtime pay found due under the act may be awarded and no award shall be made of any additional amount as liquidated damages. The bringing of an action by the Secretary seeking such relief with respect to such compensation owing to any employee would, after filing of the complaint in the Secretary's action, preclude such employee from becoming a party plaintiff in a private action to recover the amounts due and an additional equal amount as liquidated damages. The filing of the Secretary's complaint against an employer would not, however, operate to terminate any employee's right to maintain such a private suit to which he had become a party plaintiff before the Secretary's action. Nor would the amendment change the present authority of the courts to order reimbursement for losses incurred by an employee as a result of a discriminatory discharge in violation of section 15(a)(3) of the act.

Study of certain exemptions: The House bill requires the Secretary to study the complicated system of exemptions now available under the act for handling and processing of agricultural products and to submit to the 2d session of the 87th Congress a special report containing the results of the study and information, data, and recom-

mendations for further legislation designed to simplify and remove inequities in the application of such exemptions. The Senate amendment contains a provision which is like the House bill, except that it adds to the subjects to be studied, the complex problems involving rates of pay of employees in hotels, motels, restaurants, and other food service enterprises which are exempt from the provisions of the act. The substitute agreed upon in conference adopts the House bill and the additional study called for under the Senate amendment.

Minimum wages in Puerto Rico and the Virgin Islands: The Senate amendment contains provisions under which each of the rates applicable to currently covered employees in any industry in Puerto Rico or the Virgin Islands will be increased by 15 percent, the same increase as will be applicable to mainland industries, unless an appeal is made. Two years after the first increase in the wage rate for any industry has become effective, the rate will be further increased by an amount equal to 10 percent of the rate in effect at the time of enactment of the amendments, but not in excess of \$1.15 during the first 2 years after the effective date of the act, or \$1.25 thereafter. However, no rate applicable in these islands which has been in effect for less than 1 year will be increased until a full year has elapsed.

Either of the percentage increases referred to above may be superseded upon the basis of the recommendations of a review committee appointed by the Secretary of Labor under procedures prescribed in the Senate amendment upon application by employers employing a majority of employees in an industry. The application must be accompanied by financial and other data as required by the Secretary. The Senate amendment makes provision for appointment of a review committee if, on the basis of such financial and other data, the Secretary has reasonable cause to believe that such percentage increase would substantially curtail employment in the industry. A review committee may recommend a rate or rates in lieu of the applicable percentage increase, not in excess of \$1.15 during the first 2 years after the effective date of the act, or \$1.25 thereafter. In the event a wage order is not issued pursuant to the recommendations of such review committee prior to the dates the percentage increases are scheduled to become effective, the percentage increases will take effect, except with respect to employees of an employer who (1) filed an application for the review committee and (2) provided an undertaking with sureties satisfactory to the Secretary to cover the difference between the wages his employees actually received and the wages to which they become entitled. It is further provided that no special industry committee shall hold any hearing within 1 year after a minimum rate or rates for such industry shall have been recommended to the Secretary by a review committee.

Provision is also made for setting the initial minimum rate for employees on the islands to whom protection will be newly extended. Provision is made for appointment, within 60 days after the date of enactment, of a special industry committee to determine the rate or rates appropriate for the newly protected workers. Such rate or rates will become effective on the effective date of the wage order issued pursuant to the industry committee's recommendation, but not before 60 days after the effective date of the amendments. Subsequently, each rate will be subject to review at least once during each biennial period.

The substitute agreed upon in conference (sec. 6(c)) includes these provisions.

Student workers: The House bill authorizes the Secretary to permit employment of full-time students outside their school hours at subminimum wages, subject to the same

standards and restrictions applicable in the case of learners, apprentices, and messengers. The Senate amendment is similar to the House bill, but provides that such students may be employed in retail or service establishments in positions ordinarily given full-time employees. The conference substitute (sec. 14) adopts the provisions of the Senate amendment.

ADAM C. POWELL,
JAMES ROOSEVELT,
JOHN H. DENT,

Managers on the Part of the House.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

WORTHINGTON OIL REFINERS, INC.

The Clerk called the bill (H.R. 1414) for the relief of the Worthington Oil Refiners, Inc.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HEMPHILL. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

COL. JOHN T. MALLOY

The Clerk called the bill (H.R. 1449) for the relief of Col. John T. Malloy.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Colonel John T. Malloy, O-18576, United States Army, the sum of \$1,347.59, in full satisfaction of all claims against the United States for reimbursement of expenses incurred by him in connection with the payment of ocean freight transportation on his private automobile from San Francisco, California, to Java and return. The Army orders issued incident to these shipments authorized the transport of one privately owned automobile by Army transport subject to availability of space, and, inasmuch as no Army transport service to Java existed and the Department of the Army had no discretion to ship the automobile by other means, and it was found after Colonel Malloy's arrival in Java on or about January 29, 1949, that the automobile was necessary to the establishment of a new military liaison office and the performance of his duty as assistant military attaché, Batavia, Netherlands East Indies, shipment of his automobile by commercial transport was arranged on or about May 13, 1949, at a cost of \$634.47, and also at the time of his return on or about March 18, 1950, at a cost of \$713.12, as Army transport service to Java had not been established: *Provided,* That no part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EMMETT P. DYER

The Clerk called the bill (H.R. 1623) for the relief of Emmett P. Dyer.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa? There was no objection.

LOUIS J. ROSENSTEIN

The Clerk called the bill (H.R. 2686) for the relief of Louis J. Rosenstein.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa? There was no objection.

MRS. MAURICIA REYES

The Clerk called the bill (H.R. 3843) for the relief of Mrs. Mauricia Reyes.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa? There was no objection.

MR. AND MRS. JAMES H. McMURRAY

The Clerk called the bill (H.R. 4872) for the relief of Mr. and Mrs. James H. McMurray.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa? There was no objection.

HELEN TILFORD LOWERY

The Clerk called the bill (H.R. 1887) for the relief of Helen Tilford Lowery.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa? There was no objection.

BERNHARD F. ELMERS

The Clerk called House Resolution 112. There being no objection, the Clerk read the House resolution, as follows:

Resolved, That the bill (H.R. 2676) entitled "A bill for the relief of Bernhard F. Elmers," together with all accompanying papers, is hereby referred to the Court of Claims pursuant to section 1492 and 2509 of title 28, United States Code; and the court shall proceed expeditiously with the same and report to the House, at the earliest practicable date, such findings of fact, including facts relating to delay or laches, facts bearing upon the question whether the bar of any statute of limitation should be removed, or facts claimed to excuse the claimant for not having resorted to any established legal remedy, and conclusions based on such facts

as shall be sufficient to inform Congress whether the demand is a legal or equitable claim or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GEORGE A. McDERMOTT

The Clerk called the bill (H.R. 3376) for the relief of George A. McDermott.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That George A. McDermott of New York, New York, is hereby relieved of all liability to repay to the United States, either in money or in annual leave time, the forty-eight days of annual leave, which, through administrative error involving no fault on the part of George A. McDermott, he was erroneously credited with and was permitted to use during his employment, which began August 31, 1950, with the Corps of Engineers, United States Army, New York District.

With the following committee amendment:

Strike out all after the enacting clause and insert the following:

"That George A. McDermott of New York, New York, is hereby relieved of liability to the United States in the net amount of \$658.19, which sum represents the monetary value of approximately forty-five days of annual leave, which, through administrative error involving no fault on the part of George A. McDermott, he was credited with and was permitted to use during his employment, which began August 31, 1950, with the Corps of Engineers, United States Army, New York District. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for any amount for which liability is relieved by this Act.

"Sec. 2. The Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to George A. McDermott, an amount equal to the aggregate of the amounts paid by him, or withheld from sums otherwise due him, in complete or partial satisfaction of the liability to the United States specified in the first section."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

M. SGT. LOUIS BENEDETTI

The Clerk called the bill (H.R. 3846) for the relief of M. Sgt. Louis Benedetti, retired.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Master Sergeant Louis Benedetti, retired (RA 6430103), is hereby relieved of all liability to repay to the United States the sum of \$756.01, representing the total of amounts erroneously paid to him as military retired pay by the United States for the period beginning August 1, 1946, and ending July 31, 1955, both dates inclusive. The erroneous payments were made because of an incorrect

certification by the Adjutant General of the United States Army of the total amount of military service of the said Louis Benedetti creditable for the purpose of computing his military retired pay. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be allowed for all amounts for which liability is relieved by this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KEITH K. HOOVER

The Clerk called the bill (H.R. 4027) for the relief of Keith K. Hoover.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Keith K. Hoover, Lombard, Illinois, the sum of \$500 in full settlement of all claims against the United States for refund of the amount of a departure bond deposited by him on behalf of one Franz Langhammer which bond was declared breached and the amount thereof forfeited on the basis that the said Franz Langhammer, while engaged in his studies at Northwestern University, Evanston, Illinois, was employed as a part-time graduate assistant in the German language at that institution: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

Mr. McCULLOCH. Mr. Speaker, this is a bill, H.R. 4027, to refund the sum of \$500 to Keith K. Hoover which was forfeited on a departure bond executed on behalf of an alien German student. The bond was forfeited as a result of the student, Franz Langhammer, accepting a part-time job as a student assistant in the German Language Department of Northwestern University. The student was admitted to the United States for the purpose of pursuing language studies and it is evident that accepting this part-time job did not alter the status of the student. In view of the innocence of the parties, I am of the opinion that it would be unjust to require payment of this sum of \$500 and I therefore filed this bill to authorize a full and complete refund. This bill creates no precedent.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BUNGE CORP., NEW YORK, N.Y.

The Clerk called the bill (H.R. 5500) for the relief of Bunge Corp., New York, N.Y.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

CONTENTS

Issued May 4, 1961
For actions of May 3, 1961
87th-1st, No. 74

Appropriations.....3,35	
Budget committee.....23	
Conservation.....39	
Cotton.....37	
Depressed areas.....8,29	
Economic policy.....26	
Economic report.....6	
Expenditures.....5,8	
Federal-State relations.27	
Farm labor.....4,22	
Farm program.....9,20,25	
Foreign aid.....3,35	
Forestry.....2,31	
Health.....21	
Highways.....13,19	
Holiday.....38	
Insect control.....40	
Lands.....18	
Legislative program.....19	
Livestock.....15	
Minimum wage.....1	
Monopolies.....15,33	
Personnel.....5,12,17	
Prices.....36	
Public Law 480.....30	
Public works.....34	
Research.....40	
Soil conservation.....7	
Taxation.....16	
Textiles.....10,14,37	
Transportation.....32	
Water pollution.....11	
Water resources.....23,34	
Wheat.....30	
Wilderness.....24	

HIGHLIGHTS: Both Houses agreed to conference report on minimum wage bill. House committee reported bill to increase per diem travel rates. Rep. Roosevelt urged prohibition of integrated food retailing and meat packing activities.

SENATE

1. MINIMUM WAGE. By votes of 64 to 28 in the Senate and 230 to 196 in the House, both Houses agreed to the conference report on H. R. 3935, to amend the Fair Labor Standards Act to provide for the coverage of additional workers and to increase the minimum wage gradually to \$1.25 an hour (pp. 6615-7, 6638-45, 6710-26). This bill will now be sent to the President. See Digest 73 for provisions of the bill of interest to this Department.
2. FORESTRY. Sen. Proxmire inserted a report of the Lake States Forest Fire Research Conference recommending development of improved methods of forest fire prevention and control through research in the Lake States area. pp. 6569-70
3. FOREIGN AID; APPROPRIATIONS. The Appropriations Committee reported without amendment H. R. 6518, to appropriate \$500 million for the Inter-American Social and Economic Cooperation Program and \$100 million for the Chilean Reconstruction and Rehabilitation Program (S. Rept. 201). p. 6570

4. FARM LABOR. The Labor and Public Welfare Committee reported without amendment S. Con. Res. 23, to authorize the printing of additional copies of the hearing on migratory labor held by the Migratory Labor Subcommittee during the 1st session of the 86th Congress. pp. 6570-1
Sen. Javits inserted a newspaper editorial, "Labor from Mexico," stating that "the time has come for the Federal Government to stop fostering the use of cheap foreign labor to the detriment of American workers." p. 6596
5. PERSONNEL. Received from the Joint Committee on Reduction of Nonessential Federal Expenditures its report on Federal employment and pay for March 1961. pp. 6571-4
6. ECONOMIC REPORT. Received from the Joint Economic Committee its report on the 1961 Economic Report of the President. p. 6574
Sen. Proxmire inserted the text of his views dissenting from the views of the majority of the committee in its report. pp. 6597-9
7. SOIL CONSERVATION. Sen. Neuberger commended the observance of Soil Stewardship Week, May 7 to 14, and inserted a statement by the Administrator of the Soil Conservation Service on the importance of conserving the soil. pp. 6596-7
8. DEPRESSED AREAS; FEDERAL EXPENDITURES. Sen. Byrd, Va., inserted a newspaper article, "Back-Door Spending -- Depressed Area Program To Join Long List Financed Direct From U. S. Treasury." pp. 6611-2
9. FARM PROGRAM. Sen. Humphrey inserted a statement of the National Catholic Rural Life Conference discussing agricultural conditions and suggesting methods designed to improve living standards of farm families and the farm economy. pp. 6624-8
Sen. Dirksen inserted the platform adopted by the Illinois Young Republican College Federation dealing with various matters, including agriculture. pp. 6650-2
10. TEXTILES. Sen. Javits stated that the President's announced program of assistance to the U. S. textile industry was "a commendable first step toward the assumption of governmental responsibility to help those injured by trade policies pursued in the national interest," and inserted several items on the matter. pp. 6663-6

HOUSE

11. WATER POLLUTION. By a vote of 307 to 110, passed with amendments H. R. 6441, to amend the Federal Water Pollution Control Act to provide for a more effective program of water pollution control (pp. 6673-710, 6729-30). The bill provides that the Secretary of Health, Education, and Welfare shall administer the Federal Water Pollution Control Act, and authorizes the establishment of regional water pollution control laboratories in various sections of the country. It increases the appropriation authority for program grants to State and interstate agencies from \$3 million to \$5 million annually, extends the authorization to June 30, 1971, and authorizes an increase in Federal financial assistance to communities to assist them in the construction of needed waste treatment facilities from the present \$50 million annually to \$100 million annually and an increase in the total grant authorization from \$500 million to \$1 billion.

The committee is in agreement that the reporting date for the Commission should be changed from January 3, 1961, to June 28, 1961, in view of the fact that the appointments of members to the Commission were completed only recently. Accordingly, the committee recommends favorable consideration of H.R. 1723, without amendment.

Mr. CLARK. Mr. President, I hope the bill will be passed by the Senate.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 1723) was ordered to a third reading, was read the third time, and passed.

SALVATORE BRIGANTI

Mr. MANSFIELD. Mr. President, just to make certain, I now call up Calendar No. 161, Senate bill 971, and request its immediate consideration, because I am not at all sure that previously it was considered by the Senate.

The PRESIDING OFFICER. The bill will be stated by title, for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 971) for the relief of Salvatore Briganti.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection the Senate proceeded to consider the bill.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraph (9) of section 212(a) of the Immigration and Nationality Act, Salvatore Briganti may be issued an immigrant visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of such Act. This Act shall apply only to grounds for exclusion under such paragraph known to the Secretary of State or the Attorney General prior to the date of the enactment of this Act.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar, so far as the measures to which there is no objection are concerned. I wish to express my deep appreciation of the courtesy and kindness extended by the distinguished Senator from Utah [Mr. BENNETT].

Mr. BENNETT. Mr. President, I am very happy to serve in association with the Senator from Montana, and I shall do all I can to expedite the transaction of the business of the Senate.

Mr. President, I ask unanimous consent that at this time I may yield to the Senator from Michigan [Mr. McNAMARA], without losing the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1961—CONFERENCE REPORT

Mr. McNAMARA. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act of \$1.25 an hour, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read, for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of May 2, 1961, pp. 6541-6545, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. McNAMARA. Mr. President, I ask unanimous consent that additional members of the staff of the Committee on Labor and Public Welfare be allowed the privilege of the floor during the consideration of the conference report.

The PRESIDING OFFICER. Is there objection. Without objection, it is so ordered.

Mr. McNAMARA. And I also ask unanimous consent that Joseph Goldberg, of the Department of Labor, whose advice and counsel were most valuable to us during the original debate on the bill, be allowed the privilege of the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McNAMARA. Mr. President, I should like to make a brief statement in regard to the conference report.

First, I wish to thank my colleagues who served with me on the conference committee—the Senator from Oregon [Mr. MORSE], the Senator from West Virginia [Mr. RANDOLPH], the Senator from North Dakota [Mr. BURDICK], the Senator from Massachusetts [Mr. SMITH], the Senator from Rhode Island [Mr. PELL], the Senator from Arizona [Mr. GOLDWATER], the Senator from Illinois [Mr. DIRKSEN], and the Senator from Vermont [Mr. PROUTY]. Certainly it was a pleasure to serve with them, and their cooperation is greatly appreciated.

There are a number of major differences between the two versions of the bill.

So far as the Senate is concerned, the major difference relates to the extent of coverage.

The Senate amendment called for a million-dollar test for newly covered retail enterprises which also purchase or

receive annually \$250,000 of goods which have moved across State lines.

The basic House test for coverage was that an enterprise must operate five stores in two or more States.

The House conferees receded from the House position, and adopted the Senate test.

The next major area of disagreement related to minimum hourly rates for presently covered workers.

The Senate version called for \$1.25 an hour after 28 months. The House version called for \$1.15.

The Senate figure was accepted.

The next major area of difference related to minimum hourly rates and overtime protection for the newly covered workers.

The Senate version called for \$1.25 an hour after the third year, and a 40-hour workweek after the third year.

The House version brought newly covered workers under the act at \$1 an hour, and provided no overtime protection.

In this area, the conferees decided upon a compromise, as follows:

Newly covered workers would receive \$1 an hour for the first three years of the new act; the fourth year, they would go to \$1.15; and the fifth year, to \$1.25.

There would be no overtime coverage for the first two years of the act; in the third year, 44 hours; the fourth year, 42 hours; and the fifth year, 40 hours.

It is the belief of the Senate conferees that this represents a position much closer to the Senate views than to the House proposal.

Other major differences related to coverage for the employees of automobile dealers and laundries.

In both these areas, the Senate conferees receded from the Senate's position, and adopted the House view. So neither of these groups of employees will be covered in this year's act.

I must say that the Senate conferees receded most reluctantly, particularly in the case of laundry workers. We did so only at the insistence of House spokesmen that the report would not be approved by the House unless laundries maintained their present exemption.

I ask unanimous consent that following my remarks, a summary of the conference report be printed. A copy of this summary has been placed on every desk. Senators will be able to see how other minor areas of difference between the two versions were resolved.

The conference report represents a sound minimum wage measure. Its approval will result in the extension of minimum wage protection to approximately 3.6 million additional workers.

It will raise the minimum wage to a figure which will more closely mirror the harsh facts of the cost of living in the 1960's.

Mr. President, I urge immediate Senate approval of the conference report.

In conclusion, I should like to state that the Senate conferees very definitely believe that the conference report represents the farthest they can depart from the Senate version of the bill. The conference report is a moderate one.

Despite whatever views may exist among Members of the other body, I cannot believe that the Senate conferees would be willing in any further sessions to diminish the scope and impact of this measure.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Michigan?

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

Summary of minimum wage bill (H.R. 3935) as agreed to in conference

	Number of employees			Number of employees	
A. For presently covered employees (23,900,000), the minimum wage is increased to \$1.15 an hour for the 1st 2 years after the effective date and \$1.25 an hour beginning 2 years after the effective date.			C. Retail trade—Continued		
B. For newly covered employees the minimum wage and overtime will be as follows:			3. Exemption from retail coverage, etc.—Continued		
	Minimum wage	Overtime after—	(j) Any small store which has less than \$250,000 in annual sales even if it is in an enterprise that has more than \$1,000,000 in annual sales.		
1st year after effective date.	\$1.00	No overtime requirements.	4. Special provisions for retail trade: In addition, the bill makes the following special provisions for particular problems in the retail and service trades:		
2d year after effective date.	1.00	Do.	(a) Commission employees in retail stores will be exempt from overtime if more than half their pay is from commissions and if they earn at least time and one-half the minimum rate.		
3d year after effective date.	1.00	44 hours a week.	(b) Assistant managers of retail stores will be exempt even if they perform up to 40 percent nonexecutive and nonadministrative work.		
4th year after effective date.	1.15	42 hours a week.	(c) Student workers may be employed in retail trades at subminimum rates under certificates issued by the Secretary in occupations not ordinarily given to full-time employees.		
5th year after effective date.	1.25	40 hours a week.	D. Laundries: The conference agreement has removed the proposed new coverage and the changes in exemptions for laundries that were contained in the Senate-passed bill. Laundries therefore remain in the same position as they were under the present law.		
C. Retail trade:			E. Transit companies: Suburban and interurban transit companies which have \$1,000,000 or more in annual sales (exclusive of excise taxes at the retail level) are covered for minimum wage but not for overtime.	93,000	
1. Retail and service enterprises: The bill covers retail enterprises which have a million dollars or more in annual sales (exclusive of excise taxes at the retail level) and which purchase or receive goods for resale that move or have moved across State lines which amount in total annual dollar volume to \$250,000 or more.	2,182,000		F. Establishments which already have some covered employees under the Act are covered for all their employees if they are in an enterprise which has a million dollars or more in annual sales.	100,000	
2. Gasoline service stations: Also covered for minimum wage, but not for overtime, are gasoline service stations which have \$250,000 or more in annual sales (exclusive of excise taxes at the retail level).	86,000		G. Construction: Construction enterprises which have at least \$350,000 in annual business are also covered for minimum wage and overtime.	1,000,000	
3. Exemption from retail coverage: From this coverage in the retail trade the bill excludes the following:			H. Seamen: Seamen on American flag vessels are covered for minimum wage but not for overtime.	100,000	
(a) Auto dealers and farm implement dealers.			I. Telephone operators: The exemption for telephone operators is limited to those employed by an independently owned public telephone company which has not more than 700 telephones.	30,000	
(b) Hotels.			J. Fish processing: Seafood processing employees are covered for minimum wage but not for overtime (seafood canners are treated in this way under the present law).	33,000	
(c) Motels.			Total number of newly covered employees	3,624,000	
(d) Restaurants, including retail store lunch counters, caterers, and similar retail food services.					
(e) Motion picture theaters.					
(f) Hospitals.					
(g) Nursing homes.					
(h) Schools for handicapped or gifted children.					
(i) Amusement or recreational establishments operating on a seasonal basis.					

K. Other provisions:

1. Puerto Rico: The minimum wage in Puerto Rico for presently covered employees is increased by the same percentage as the mainland minimum, subject to review by industry committees in hardship cases; for newly covered employees the rates will be set by industry committee procedures.

2. Broadcasters: Announcers, news editors and chief engineers of broadcasting companies located in nonmetropolitan cities of 100,000 or less population are exempt from overtime.

3. Bulk petroleum dealers: Independently owned and controlled local enterprises engaged in bulk petroleum distribution are exempt from overtime if their annual sales are less than \$1 million (exclusive of excise taxes).

4. Trip rate: Trip rate drivers and drivers' helpers making local enterprises are exempt from overtime if the Secretary of Labor finds that the plan under which they are paid is consistent with the principle of the 40 hour workweek.

5. Farmer's livestock auction operations: Employees working in a livestock auction held by a farmer need be paid the minimum rate only for the hours they work at the auction if during that workweek they are employed primarily in agriculture by the farmer.

6. Country elevators: Employees in country elevator establishments in the area of production, which may also sell products and services used in the operation of a farm, are exempt from both minimum wage and overtime if no more than five employees are employed by the establishment in such operations.

7. Cotton ginning: Employees engaged in ginning cotton for market in counties where cotton is grown in commercial quantities are exempt from minimum wage and overtime.

8. Holly wreaths: Homeworkers making natural holly wreaths are exempt from the act.

9. Shade-grown tobacco: An exemption from minimum wage and overtime is provided for agricultural employees engaged in bulking shade-grown tobacco if they were employed in the growing and harvesting of such tobacco.

10. Transporting fruits and vegetables to market: An exemption from minimum wage and overtime is provided for employees transporting fruits and vegetables from the farm to market or transporting harvesting hands, within the State.

11. Board and lodging may be included as wages on the basis of a fair-value calculation made by the Secretary: Also, such prerequisites may be excluded from wages to the extent that they are excluded under a collective bargaining agreement.

12. Study of employment effects of foreign trade: The Secretary is authorized to study employment effects of imports and exports in industries covered by the act and to report on such studies to the President and to the Congress.

13. Study of certain exemptions for canning and processing and of wage rates in hotels and restaurants: The Secretary will study the complicated system of exemptions in the act for the handling and processing of agricultural products as well as the rates of pay in hotels, motels, restaurants and other food-service enterprises and to report

the results with recommendations in the next session of this Congress.

14. Effective date: 120 days after enactment.

Mr. JAVITS. Mr. President, if the Senator will yield, I should like to ask whether, notwithstanding the failure to include such a provision, we retain complete freedom of action to seek from the Department of Labor a study in regard to what happens to laundry workers who are excluded from the coverage of this measure.

Mr. McNAMARA. The part of the Senate version dealing with laundry workers was totally eliminated in the conference; and the conference report makes no reference to a further study. But, obviously, the Secretary of Labor has such authority and he has indicated privately to me that he will make such a study.

Mr. JAVITS. I hope the Senator individually and the committee as a group will bring this matter under scrutiny, because if we found the existence of a manifestly bad situation in which workers were really being exploited, I am sure our colleagues might take a very different view.

I understand the local views which finally prevailed. I heard them expressed in the committee, on which I have the honor to sit with the distinguished Senator from Michigan [Mr.

McNAMARA. I heard the expressions of those from my State who came to see me about this matter. I was not persuaded that we ought to eliminate the laundry workers, but, for reasons of practicality, they are eliminated. I think we owe a solemn responsibility to them, as we owed to the motel and hotel workers, the provision relating to whom I hoped would be adopted in the other body, too, to assure them that their interests are under constant scrutiny. I know I am stating what we all know to be the fact, but I think it is important, in view of the exclusion in the compromise between the two Houses, that some of us assume that responsibility in a very public way; and I know the Senator from Michigan feels precisely as I do about it.

Mr. McNAMARA. For the RECORD I wish to state that I feel that way.

Mr. BENNETT. Mr. President, I must tell the Senator from New York that I have the floor. Unfortunately, I have promised one or two of my colleagues on the other side of the aisle that I would yield to them, so they could meet some pressing engagements. I do not think I should yield for general debate or discussion of the conference report.

Mr. JAVITS. If the Senator will yield, may I say that this practice of keeping the floor may be indulged in, but it may not be used to throttle discussion on an important matter as a conference report. I think the Senator from Utah would be the last one to make such a ground rule.

Mr. BENNETT. The Senator from Utah was asked by the chairman of the subcommittee to yield for the purpose of introducing the report.

Mr. MANSFIELD. Mr. President, if the Senator will yield—

Mr. BENNETT. I yield.

Mr. MANSFIELD. And also by the majority leader, who made that request, and the Senator from Utah was gracious enough to state he would acquiesce.

Mr. BENNETT. The Senator from Utah does not want to be ungracious, but three Members on the other side of the aisle are facing a deadline, and want to make insertions in the RECORD. The Senator from Utah hopes the discussion on the conference report will resume after he makes his statement, for which purpose he sought and obtained the floor.

Mr. JAVITS. May I say that is satisfactory if it is not intended to adopt the conference report until after the Senator from Utah makes the statement; but if it is intended to adopt it before that, I hope the Senator will not inhibit discussion on it.

Mr. BENNETT. The Senator from Utah understood that he yielded for the purpose of the presentation of the conference report, and that action would be taken after he had made his statement.

Mr. McNAMARA. Mr. President, if the Senator will yield, I hope I may have the attention of the majority leader before he leaves the floor. This matter is a privileged matter. We have gone pretty far on it. Could we act on it now?

Mr. MANSFIELD. We could if there was not much of a debate on it. I point out that even though it is a privileged

matter, the right of the Senator from Utah cannot be taken away from him. He has the floor, and he has graciously acquiesced to yield. I think he has gone a long way to comply with the request made by the Senator from Michigan and myself earlier in the day.

Mr. DIRKSEN. Mr. President, if the Senator will yield, there will be further discussion. The Senator from Vermont has a statement to make. I think I shall make some comments.

At this point I wish to point out that on the last page of the conference report, dealing with student workers, the language is:

The Senate amendment is similar to the House bill, but provides that such students may be employed in retail or service establishments in positions ordinarily given full-time employees.

That language should read: "in positions not ordinarily given to full time employees."

Mr. McNAMARA. I am advised the correction was made by the staff, as instructed by the conference committee. They had the authority to do it.

Mr. DIRKSEN. If Senators will let the Senator from Utah yield to Senators who have pressing engagements, then we can resume discussion of the conference report later.

Mr. BENNETT. I am happy to do so. Now I am happy to yield.

(Mr. BENNETT yielded to several Senators, whose statements appear elsewhere in the RECORD.)

DEATH OF VERY REV. ROBERT J. SLAVIN, O.P., PRESIDENT, PROVIDENCE COLLEGE

Mr. PASTORE. Mr. President, scarcely a month ago, on March 28, I stood on this Senate floor to sound the praises of the basketball team of Providence College. Victors in the National Invitation Tournament, the campus of Providence College rang with all the youthful joy of their triumph. Their happiness was shared by the entire community—and most of all by their faculty—and the most ardent of their fans, the president of Providence College, the Very Reverend Robert J. Slavin of the Order of Preachers.

Today the Providence College campus is silent in sorrow—steeped in the tragedy of the sudden and untimely passing of Father Slavin on Monday, April 24. Only a few days earlier, in the fullness of his powers and in the performance of his duties, Father Slavin was here in Washington.

Now in the quiet of the Dominican cemetery on this same campus, this great son of Thomas Aquinas finds his rest. All of the honors of his church have been paid him—and all the tender tributes of a sticken community.

For his passing has left a lonely place in the hearts of all who have known the labor and love Father Slavin gave to Providence College as the school, its faculty, and its scholarly sons achieved national respect, fame, and affection.

The world of education, the domain of religious understanding, the humblest

home that has helped and been helped by the expanding greatness of the college—our whole community which has enjoyed its inspiration and intimate friendliness—all these have sustained a personal loss in the death of this good priest, this great teacher, this valued friend.

Sixth president of Providence College, to which honor he came in May 1957, and serving longer than any other, Father Slavin has presided over a third of that school's life of service—over the last 14 years of its astounding growth.

Three thousand students find opportunity in the classrooms of the buildings that dot its 73 acres as they find inspiration in its faculty of 159—more than half of them members of the Order of Friars Preachers, more popularly known as the Dominican Order. This is a far cry from its first class of 80 gathering 42 years ago.

Father Slavin came to the Providence College presidency from the Washington educational scene of which he had then been an important part for 13 years as professor of philosophy at the Catholic University of America. Here he obtained his master of arts degree—his licentiate in sacred theology and his doctorate in philosophy.

His national prominence has continued. He was a member of the executive committee of the American Council on Education, a member of the Advisory Committee on new educational media of the U.S. Office of Education and a former president of the National Catholic Education Association.

Father Slavin was an accepted authority on educational matters on the Hill, and many Members of the Congress were honored to call him a close personal friend.

Schools, colleges, and universities beyond number have bestowed their honorary degrees upon him, and for 10 years he has borne the highest and rarest honor of the Dominican Order—master of sacred theology.

Orator and author, builder and administrator, teacher and priest, these multiple careers Father Slavin has achieved in the half century of his life.

The dedicated life of this priest was foreshadowed in his Boston boyhood. Its arena was forecast as he became a student at Providence College. Its fulfillment is to be found in his influence that lives on in this school of the ideals that he sought and served.

No single campus confines such an influence.

It is coextensive with the character of America wherever the men of Providence College have gone with his instruction and inspiration.

While Rhode Island mourns her loss in the death of Father Slavin, we are conscious of and grateful for an existence made so much richer by the life of this beloved servant of his God and his fellow man.

FEDERAL AID TO CHURCH SCHOOLS

Mr. ERVIN. Mr. President, I ask unanimous consent to have printed in the body of the RECORD a report from

Washington, prepared by Dr. Edgar Fuller, executive secretary of the Council of Chief State School Officers, which report deals with the very important subject of the constitutionality of proposals for Federal aid to parochial schools.

I ask unanimous consent to have the report printed at this point in the RECORD, together with a preliminary statement about Dr. Fuller's qualifications.

The report and statement were ordered to be printed in the RECORD, as follows:

Dr. Edgar Fuller, executive secretary of the Council of Chief State School Officers, has had a long and active career in educational law and administration. He majored in administrative and constitutional law in earning a doctor of law degree from the University of Chicago Law School in 1932, and wrote his dissertation in school law in earning a doctor of education degree in educational administration at the Harvard Graduate School of Education. He has taught school law at the Harvard Graduate School of Education for 2 years, at the University of Southern California for three summers, and in other higher institutions. The constitutional phases have always been a major interest.

REPORT FROM WASHINGTON: KENNEDY MEMORANDUM PRESENTS ARGUMENTS FOR LEGISLATIVE PACKAGE ON EDUCATION—SAYS GRANTS TO CHURCH SCHOOLS UNCONSTITUTIONAL

A lengthy memorandum presenting the Kennedy administration's argument for the constitutionality of its legislative program in education has been filed with Congress and made public. Prepared at the request of Chairman WAYNE MORSE of the Senate Subcommittee on Education by attorneys of the Health, Education, and Welfare Department, in consultation with the Department of Justice, it presents brilliant and sometimes subtle persuasion for the Kennedy bills on public school and higher education. Then it advises Congress on how to be certain that new legislation can be brought before the Supreme Court for tests of constitutionality under the first amendment.

On a few of the issues, opposition lawyers may have the advantage before the Supreme Court, but this possibility does not detract from the current importance of the memorandum. It presents an initial estimate of constitutionality appropriate for the executive branch.

Congress soon may make a second preliminary estimate by passing the legislation. Then the Supreme Court undoubtedly will give some weight to these executive and legislative estimates of constitutionality in its final judgments on any specific cases. The memorandum is an excellent contribution to the national discussion of public and private education.

The first conclusion of the memorandum is that general grants of public funds to church schools are unconstitutional. The memorandum cites the principle stated by Justice Black in *Everson v. Board of Education* as binding: "No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion."

The memorandum also says: "Since no effort is made to earmark the funds for specific purposes, such a broad grant would inevitably facilitate the performance of the religious function of the school." Thus begins the contention that general purpose funds facilitate religion in the school, but that special purpose funds do not.

One may agree that funds for general purposes always facilitate the performance of the religious function of a church school, without implying that funds for special pur-

poses seldom or never do. Merely an "effort to earmark," even if accomplished, could scarcely save funds for even limited instructional purposes from unconstitutionality if they finance religion in such a school. The contention foreshadows later discussion on the loan provisions of title 3 of the National Defense Education Act.

Loans to church schools also unconstitutional, says memorandum. Cites *McCollum* case and draws analogy.

The second conclusion is that general loans to church schools are likewise unconstitutional. The memorandum states: "These benefits plainly have the purpose of providing financial advantage or convenience to the recipient. And like the broad grant, the across-the-board loan would inevitably facilitate religious instruction."

It adds that public property cannot constitutionally be lent for religious purposes, citing the *McCollum* case, and that the lending of public credit is in the same category. The *Zorach* case is then cited for the unequivocal position that "Government may not finance religious groups."

The third general conclusion is that tuition payments for all church school pupils are unconstitutional. The word "all" leaves much to the imagination, possibly implying that any number of pupils short of "all" might be selected and made eligible.

The memorandum says such tuition payments accomplish indirectly what grants to church schools would do directly, and that " * * * tuition payments, whether made to the school or to the parent or student, would constitute support of church schools. * * * " It points out that State courts have followed the *Everson* case in ruling such tuition unconstitutional because it "compels taxpayers to contribute money for the propagation of religious opinions which they may not believe."

Uncertain constitutionality in loan provision of NDEA loans "likely" to be upheld as constitutional.

In these areas the memorandum deals with the three interrelated constitutional limitations that apply: the twin requirements of the 1st amendment against establishment of religion and guaranteeing the free exercise of religion, and the due process clauses of the 5th and 14th amendments. It accepts the *Everson* decision upholding use of tax funds for public bus fares of parochial school pupils on their way to and from school as the outer limit under the Federal Constitution in the area of auxiliary services. This exceeds the outer limit of constitutionality under many State constitutions.

Another area of uncertain constitutionality is recognized in the loan provision of title 3 of the National Defense Education Act. This authorizes Federal funds for the purchase of materials and equipment to improve instruction in science, mathematics and modern foreign languages in elementary and secondary schools. The memorandum regards these loans as likely to be upheld as constitutional, saying they are for special purposes not closely related to religious instruction, are intended to advance specific national purposes, and are not likely to release other funds for religious purposes because the loans must be repaid.

The distinctions are unconvincing. Religion pervades the curriculum in church schools, and these subjects constitute some 40 percent of the curriculum. The national interest in education has been recognized by Congress as covering many more than these subjects; education itself was so recognized as far back as the Northwest Ordinance.

Governmental financing through loans constitutes an economic benefit to the school. These loans could be classed more logically with so-called across-the-board loans to elementary and secondary schools,

and it is significant that the memorandum ends the section with the following statement:

"In what other directions this principle of special purpose loans may be extended is difficult to ascertain. Typically secular and sectarian education is so interwoven in church schools as to thwart most possibilities."

The memorandum deals with higher education more briefly than with the elementary and secondary schools. On some points it is convincing. On others, however, it leaves an impression of desperate advocacy, occasionally making dogmatic statements that are no more than opinions while omitting demonstrable facts that objectivity requires.

"The constitutional principles involved are obviously the same whether the subject is elementary and secondary school education or higher education, but the factual circumstances surrounding the application of the principles are dramatically different," says the memorandum. Some of the conclusions reached in reversing settled constitutional principles on behalf of higher education are far more different than the circumstances.

Scholarships for students in both public and private colleges appear here to stay and will be expanded with no trouble.

The memorandum naturally emphasizes differences between elementary and secondary education on the one hand and higher education on the other as much as possible. There are some differences. For instance, elementary education is compulsory and secondary education is partly compulsory, although most States do not require attendance in either public or private classes when children otherwise are educated effectively. College attendance is voluntary. There are also differences in maturity of the students, so sectarian influence can be judged better by college students.

The memorandum emphasizes that 41 percent of college students attend private institutions, and that to limit the use of scholarships at these institutions would unbalance higher education and restrict individual opportunities. Holders of federally financed scholarships for college attendance may be privileged to attend sectarian colleges or universities under the guarantee of free exercise of religion in the first amendment.

In any event, enough real differences in circumstances between students and institutions at the higher and lower levels exist to support a strong case for upholding the constitutionality of federally financed scholarships used in any accredited public or private college or university.

The memorandum states: "Governmental assistance given directly to colleges for the construction and expansion of academic facilities perhaps raises, in the case of sectarian institutions, a closer constitutional question than scholarships." Here the attorneys hint that perhaps the nondenominational, nonprofit private colleges and universities might be considered more similar to the public than to the sectarian higher institutions. I believe they are, insofar as the first amendment is concerned, but to admit this openly in the memorandum is too much to expect. It would undermine the arguments for many of the positions taken, because sectarian colleges enroll about the same percentage of college students that sectarian schools enroll of elementary and secondary students.

For elementary and secondary sectarian schools, Federal financing of facilities is said to be unconstitutional, but circumstances bring the attorneys to an opposite conclusion for higher education. It is a close question.

Federal grants to sectarian institutions of higher education are constitutional, says memo, which rejects *Everson* case.

distinguished Secretary of Commerce spoke at the dinner. Later, I understand, the President of the United States demanded that an investigation be made to determine if any nonwhite Democrats had been refused tickets. What authority did he have to inject himself into a State party matter? That has been done, however. I understand that the basis for his request was the fact that a Cabinet officer was speaking at the dinner, and that the administration will not countenance a Cabinet officer speaking to a group of white people who had invited him to speak.

In the case of Virginia, the recent action taken by the Attorney General of the United States is no less reprehensible. That action should be condemned by every right thinking American; not only by the people of Virginia, and not just by the people of the South, but by all the people of the Nation.

For the Attorney General to come into the State of Virginia and attempt to close all the schools merely because the people in one county say "We want to furnish our own private schools and not operate public schools," is one of the most unreasonable steps that any Cabinet officer has ever taken in the history of the country.

Again I commend the able and distinguished Senator from Virginia for his magnificent presentation on this occasion.

Mr. BYRD of Virginia. I thank the Senator from South Carolina.

Mr. MORSE addressed the Chair.

FAIR LABOR STANDARDS AMENDMENTS OF 1961—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

The PRESIDING OFFICER (Mr. JORDAN in the chair). The Senator from Michigan has the floor.

Mr. McNAMARA. May we proceed with the adoption of the conference report?

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. McNAMARA. I am happy to yield to the Senator from Oregon, if I do not lose the floor. I yield to him for the purpose of discussing the conference report which is now before the Senate. I understand that he wishes to discuss the conference report. I am happy to yield to him provided I do not lose my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. KUCHEL. Reserving the right to object, I am told that the minority leader would like to have a quorum call before any discussion ensues on the conference report.

Mr. McNAMARA. I am happy to yield for that purpose.

Mr. KUCHEL. With the usual safeguards to the Senator, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KUCHEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection. It is so ordered.

USE OF AMERICAN-FLAG CARRIERS BY GOVERNMENT EMPLOYEES AND THEIR DEPENDENTS

Mr. MAGNUSON. Mr. President, I am indeed gratified by the prompt action taken by President Kennedy and the Bureau of the Budget in response to my request to encourage the use of American-flag carriers by Government employees and their dependents.

I hope comparable action will be taken to assure the fullest use of our carriers by others traveling at Government expense similar to that taken by the ICA pertaining to personnel of Government contractors, consultants, students, and others.

The Bureau of the Budget rightfully recognizes that there may be instances where foreign-flag services will be required to meet the traveler's needs. However, with the worldwide service of American carriers, these instances should be rare indeed. I hope our carriers will be provided every opportunity to meet Government-financed travel needs and that tickets may be purchased through their offices as prescribed by the General Accounting Office. Further, it would be economically unrealistic if small savings in per diem or other expenses should deprive the U.S. marine carriers of large sums of revenue and impair the accomplishment of the objective to give full support to our own carriers.

With respect to U.S.-owned foreign currencies acquired as a result of our aid programs, every effort must be made to place our carriers on equal footing with foreign subsidized competitors to accept and use such currencies. Whenever our carriers can use and convert foreign currencies, the American dollar is strengthened.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a letter written by the International Cooperation Administration and a press release from the Committee on Commerce relating to this subject.

There being no objection, the letter and press release were ordered to be printed in the RECORD, as follows:

INTERNATIONAL COOPERATION ADMINISTRATION, Washington, D.C.

On November 16, 1960, a Presidential directive was issued concerning steps to be taken with respect to the U.S. balance of payments. This directive explained the circumstances contributing to the decline in U.S. gold reserves and directed all U.S. Government departments and agencies to adopt a policy which will place primary emphasis on financing goods and services of U.S. origin in all activities.

This letter is addressed to you, therefore, as an organization involved in contractual relations with ICA, to solicit your cooperation in giving effect to the spirit and intent of the Presidential directive.

While it is possible that your contract currently in effect with this Agency or with a cooperating country may not bind you in this regard, it is requested that, wherever possible, you use your best efforts to procure goods and services in accordance with the policy outlined below which policy is currently effective as regards all other ICA expenditures:

(a) Procure equipment and supplies from U.S. dollar funds where authorized under ICA-financed contracts from free-world sources other than the following countries: Australia, Austria, Belgium, Canada, Denmark, France, Germany, Italy, Japan, Luxembourg, Monaco, Netherlands, New Zealand, Norway, South Africa, Sweden, Switzerland, the United Kingdom, and Hong Kong. The term "free world" means any country in the world except the U.S.S.R., Albania, Bulgaria, Czechoslovakia, Germany (Soviet occupied), Hungary, Poland, Rumania, and China (mainland).

(b) Arrange for air and surface travel of your employees and their dependents and transportation of their personal property, by American-flag carriers or vessels, unless they are not available or their use is not feasible.

(c) Inform your personnel that if the contract authorizes shipment of a privately owned automobile, no foreign- (non-U.S.) made motor vehicle purchased by such personnel or their dependents subsequent to March 1, 1961, is to be transported at Government expense.

(d) Transport only on U.S.-flag vessels commodities, materials, and equipment procured under the contract from mutual security program funds.

(e) Restrict any ICA-dollar-financed travel of participants which may be authorized by the terms of your contract to free-world-flag carriers or vessels, other than those registered under the laws of the countries listed in (a) above, as excluded procurement sources.

Your cooperation in connection with the foregoing matter will be greatly appreciated. Should you desire further information regarding the Presidential directive and the methods whereby it may be applied effectively to your contract, the Office of Contract Relations will be pleased to discuss the matter with you.

Sincerely yours,

EDWARD E. KUNZE,
Director, Office of Contract Relations.

RELEASE FROM THE SENATE COMMITTEE
ON COMMERCE

Those traveling at Federal expense have been directed by the Bureau of the Budget to give preference to American-flag carriers. Chairman WARREN G. MAGNUSON, Democrat, of Washington, of the Senate Commerce Committee, reported today.

MAGNUSON said, after talking with officials at the White House and Bureau of the Budget, that the new order, patterned after

those in effect in Departments of State and Defense, would become effective May 15, 1961.

MAGNUSON had pressed for the order, maintaining in a letter to President Kennedy that nearly \$100 million annually is involved, and that American-flag carriers now are at a distinct disadvantage as long as many travelling at Federal expense do so on foreign carriers, many of which are directly subsidized by their governments.

MAGNUSON was advised by White House and Budget officials that the new order would direct employees to use American airplanes where travel is performed by commercial air transportation between the United States and a foreign country or between foreign countries, with these notable exceptions:

1. Where a foreign plane might be necessary to insure arrival in time for conduct of official business.
2. Where a flight by an American plane is scheduled but does not have accommodations available when reservations are sought.
3. Where the departure time, routing, or other features of an American airplane flight would interfere with or prevent the satisfactory performance of official business.
4. Where a scheduled flight by an American plane is delayed because of weather, mechanical, or other conditions to such an extent that use of a foreign airplane is in the Government's interest.
5. Where the class of accommodations determined (under sec. 36c) is available on both an American and a foreign airplane, but the use of the American airplane will result in higher total cost to the Government due to an additional per diem or other expenses.
6. Where the class of accommodations determined (under sec. 36c) is available only on a foreign airplane and the cost of transportation and related per diem is less than the cost of available accommodations on another class on an American airplane and related per diem.
7. Where payment for transportation can be made in the currencies of the following countries: Burma, India, Israel, Pakistan, Poland, the United Arab Republic (Egypt), and Yugoslavia.

In his earlier letter to President Kennedy, MAGNUSON stressed "for several years the Senate Commerce Committee has been concerned with the amount of travel on foreign airlines by U.S. Government employees and their dependents—travel paid for by Government funds."

FAIR LABOR STANDARDS AMENDMENTS OF 1961—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. McNAMARA. Mr. President, I am happy to yield, under the same conditions, to the Senator from Oregon.

Mr. MORSE. Mr. President, in my judgment the chairman of the committee of conference, the distinguished Senator from Michigan [Mr. McNAMARA],

deserves the thanks of the Senate for his leadership in connection with the conference report on the minimum wage bill, now before the Senate. At the time the bill was introduced in the Senate, I was pleased to join with the Senator from Michigan as a cosponsor of the bill. I have nothing but the highest respect for the able leadership of the distinguished Senator from Michigan in first introducing the bill in the Senate, handling it in committee, bringing it to the floor, then having it passed through the Senate, and finally referred to the conference.

Mr. President, I did not sign the conference report. I think the RECORD should show my reasons for not signing the report. I shall vote for the report today because it is now perfectly clear that it is the best bill we can hope for at this session of Congress, but it is not a good enough bill.

I did not sign the conference report because I want to focus attention on the shameful way we are treating the laundry workers of the Nation. I refused to sign because the House conferees should have accepted the Senate's carefully drawn provision covering the country's larger laundries.

The fact that it is not a good enough bill does not reflect upon the Senator from Michigan, nor the other Senate conferees; in my judgment, it reflects upon the House leadership.

I did not sign the conference report because, very frankly, I could not agree with my Senate colleagues that we should yield to what I considered to be unfortunate tactics on the part of House conferees, tactics which could not, in my judgment, justify receding by the Senate conferees.

Apart from laundry workers, the bill did not cover all the many millions of workers in this country who ought to be covered. The bill, at best, as many of us said when it was before the Senate for approval in the first place, is a modest and moderate bill. However, it at least brings under coverage some persons who otherwise would not be covered.

Although most of those who are to be covered under the bill already receive the minimum wage, the coverage problem is the vital public policy question involved. It is for this reason that I will vote for the bill even though I did not sign the conference report.

The bill as passed by the Senate covered laundry workers who fall within the purview of the commerce clause of the Constitution. I think the record shows clearly that they are the most exploited group of workers in the Nation; they are at the bottom of the barrel. In my judgment they are the ones who should be covered first, and they are the ones to whom our Republic has a clear moral obligation. The situation of this group of workers makes them the largest group of workers in the United States who, to all intents and purposes, still are working under sweatshop conditions.

Mr. President, as I have previously informed the Senate, I have lived with this laundry workers' problem since 1942, when I wrote a unanimous opinion of

the War Labor Board. At that time we increased the pay of the laundry workers to the maximum amount to which we could increase their pay under the then existing Fair Labor Standards Act. But it is to the everlasting shame of this country that in 1942 we increased their wages from 19 cents an hour to only 40 cents an hour. As I pointed out in my opinion in connection with that decision, the color of the skin of most of those workers was black; but that did not reduced by one iota the moral and spiritual responsibility of the people of the Nation to see to it that such economic degradation come to an end.

In that historic case in 1942, we were told that if we increased the wages of those workers to 40 cents an hour, the result would be that many laundries in the United States would have to close, and that the housewives of the Nation would go to their basements and do their own laundry. In that opinion I pointed out that if such would be the case if the laundry workers were relieved of subsidizing the housewives, then the sooner the housewives went into the basements and did their own laundry, the better.

Mr. President, the argument that if only moral justice is done to the laundry workers of the United States in the year 1961, many laundries will be closed, is the same old bromide with which we have been confronted whenever there has been a minimum wage bill.

The Senate voted on a rollcall vote, to do justice, to the laundry workers. The version of the bill the Senate passed covered at least some of the laundry workers. I thought it most important that we make a breakthrough—that at least we make a start in extending coverage to the laundry industry. The Senate version of the bill did not cover all the laundry workers; but it did recognize that these exploited fellow Americans are entitled to at least some beginning by way of legislation which will alleviate their sordid working conditions. So I was very proud when, this year, the Senate voted to include laundry workers among those covered by the minimum wage bill.

Then we went to the conference. There was no doubt where the Senate conferees stood. I wish to say to the clear credit of the chairman of the Senate conferees, the Senator from Michigan [Mr. McNAMARA], that, in my judgment, he did everything he could to try to get the House conferees to recognize the justice of the Senate provision in regard to the laundry workers. But we were met with an argument which the House conferees make time and time again; and I have grown weary of it. So far as I am concerned, the House conferees will never be able to sell that argument to me, because it is a rationalization for their not making in the House the first they should be willing to make in connection with these great social legislative problems.

The argument of the House conferees was this:

Do you want any minimum wage bill at all? If you insist on including the laundry workers provision, the report will be rejected by the House. Then new conferees will be

appointed and will be given instructions, and they will not agree to as many compromises as we have already agreed to.

Mr. President, I do not buy that argument. In my judgment, a conferee has an obligation to vote in conference for what he thinks is sound legislation. And when they find—as the House conferees found in this instance—that the Senate conferees were unanimous in favoring the coverage of laundry workers, I believe the House conferees should have taken that provision back to the House of Representatives.

Some may say that such a course would result in the loss of some bills. Mr. President, it may be necessary to lose some bills, for a time, in order to stop this device, which I believe is growing up in our conferences with the House, because in my experience this is not the first instance of such pressure by the House conferees.

Furthermore, I wish to say that the Democratic leadership of the House—and I speak as a Democrat—has some responsibility, too, in connection with this matter. All of us know where most of the exploiting of the laundry workers takes place. I speak most respectfully when I say that in this instance Mr. RAYBURN and Mr. VINSON had a duty to the party to take this issue to the House. To the contrary, these very leaders had made it clear to the conferees that there would be no bill in the House at all with laundry workers covered. Let us find out where the Democrats in the House stand. Let the Nation be told where the Democrats in the House stands on a rollcall vote, on a showdown, in connection with the proposal to bring to an end the exploitation of black laundry workers in America—because most of them are black.

We Democrats do a great deal of talking about how all of us are in favor of civil rights and first-class citizenship. But it is about time for the Democratic Party to stand up and be counted, when it is confronted with an issue such as this one. This issue should have gone back to the House of Representatives to see what the Democrats in the House of Representatives would do. We should have found out if it were true, as we were told in the conference, that the result of following such a course was that the minimum wage bill would be lost. Certainly the workers of the Nation have an obligation to do a little sacrificing for a time, if necessary, in order to prevent the exploitation of those within the ranks of labor who are suffering the most.

I take the position that anyone working within the purview and jurisdiction of interstate commerce in this country ought to be covered under a minimum wage law. We have made some progress toward that end and I hope we can correct the gross and inexcusable injustice to the laundry workers by bringing them under coverage next year.

I shall vote for the conference report, but with a heavy heart, because the House has had its way. The House has succeeded once more in taking the position that we can take it or leave it. However, I hope the American people will

make clear to their political representatives in the Congress that they will hold them responsible at the polls if they continue to permit the exploitation of the laundry workers of America.

Mr. McNAMARA. Mr. President, I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, in 1938, the original Fair Labor Standards Act became law. Today, almost 23 years later, we are completing the democratic process—and I speak in the general term—through a significant contribution to the broad field of social justice in this area.

I would remind my colleagues that this contribution will not be a meager one. I recall that in 1949 and in 1955 there were few additional workers brought under the provisions of the Fair Labor Standards Act. As a consequence of the 1949 act the minimum wage of 40 cents an hour became ultimately 75 cents an hour. In 1955, the 75 cents an hour was increased to the ultimate level of \$1 an hour. There was opposition in 1949 and in 1955 to the increases which I have just mentioned.

Mr. President, this is not a time for dramatics, but it is a time to reflect upon what has happened since 1938 in this field of labor-management progress. It is my view that the conference bill is a notable advance, because when we add 3,600,000 workers under the act, we move forward for a strengthening of our economic base.

I remember 1938. Ofttimes we are accused of a certain amount of nostalgia—perhaps an evaluation—but I remember, as a member of the House Labor Committee in 1938, the vigorous efforts which we had to pursue to bring about a minimum wage of 25 cents an hour in this Republic. And I remind my colleagues again, although I have mentioned the increases of 1949 and 1955, that there were no substantial numbers of workers brought under the provisions of the act between 1938 and 1961. This is a day of achievement, hammered from compromise, but the major provisions of the Senate concept remain intact.

So this is not a slight accomplishment. This is a recognition, long overdue to American workers.

Mr. President, in the industries and businesses of America there were unconscionably long working hours in 1938. Many employees within interstate commerce received inadequate pay. Intolerable working conditions were prevalent. And so, with long hours, short pay, and, to a degree, sweatshop conditions prevailing, we were faced with the necessity of acting, and I think we acted constructively—in 1938. Someone may say here today that this is a return, in part, to the New Deal. Well, I do not apologize. I feel that those who believe in this program can take credit for once again bringing the spirit of Franklin Roosevelt which existed in the 1930's, back into the Capitol Hill legislative process in 1961.

The Senator from Oregon has stated that we were unable to hold the provision as to laundry workers which was provided in the measure as it passed the

Senate. Approximately 140,000 laundry employees were covered in the Senate version. That is approximately one-third of the number of such workers in the Nation who could be covered. We felt we should make an approach in this underpaid field. We made it in the Senate. Stiff opposition developed in the House. No coverage could be obtained in that body.

Let us speak now of the conference itself, where the Senate and House conferees, over a period of several days, considered a composite measure which might be brought to passage. Certainly Representatives POWELL, ROOSEVELT, and DENT, conferees from the House, were in agreement with the Senate conferees on the matter of the coverage for laundry workers.

I differ in degree with my esteemed colleague from Oregon, [Mr. MORSE] when he says that we should have held out on this merited proposal. We had to stop, temporarily, in pressing for our position. We are faced with the statement by House conferees that in the House the bill could not pass if the laundry worker provisions of the Senate bill remained intact. Senator MORSE and I were active in our attempt, as were others, to cover laundry workers. I desired action—even though it stopped short of equity to these workers. We are aware of the close vote in the House on passage of the original bill.

The chairman of our Senate conferees, the very diligent and devoted Senator from Michigan [Mr. McNAMARA] realized, as did other Senate conferees, that it is important to secure the passage of legislation to bring 3.6 million workers under coverage and to raise the wage from \$1 an hour ultimately to \$1.25 an hour.

We could not justify a repetition of what happened in the 86th Congress, when the Senate and the House conferees failed to agree on a version which could be sent to the White House.

It is my hope that, since we have yielded on this point, that the House will find a sufficient number of votes to bring about approval of the work which has been done in the conference. I have every belief there will be a substantial support in this body for the conference report-measure as it has been adjudicated between the two bodies. I hope that not only in the Senate, but also in the House later today, the Congress will adopt the conference report, so that the bill may go to the President of the United States. We are assured the Chief Executive of our Republic will sign it into law.

Mr. HOLLAND and Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER (Mr. CANNON in the chair). The Senator from Michigan has the floor.

Mr. McNAMARA. Mr. President, I yield to the Senator from Florida, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLAND. Mr. President, I never criticize a colleague either for a bill which he has introduced or for a vote on the bill, or for a bill which a Senator

brings to the Senate from conference, because I know some of the pains and aches of conference duty. I am not now criticizing any Senator because he supports the pending bill in its mutilated form.

I do not think, however, that the rule goes so far as to prevent the criticism of the outcome of the work of my colleagues, and I wish to briefly say I think this is a very bad bill, one which I could not support, one which I think so far abandons any principle that it is exceedingly difficult, if not impossible, to find any principle which runs throughout the warp and woof of the bill.

First, I wish to comment with reference to the remarks of my esteemed friend from West Virginia [Mr. RANDOLPH], who stated that somebody had claimed the authors or sponsors of the bill were renewing the New Deal. I wish to make it very clear that I dissociate myself from that charge, because in the authorship and sponsorship of the bill its supporters have vastly outdealed the New Deal.

As has been stated repeatedly in the debate heretofore, every Senator knows that the then President of the United States, Franklin Roosevelt, in recommending passage of the original bill, confined his recommendations, in their effect, as they should have been confined, to clearing up sweatshops and cleaning up manufacturing enterprises from the intolerable conditions which prevailed. He said not once but several times that the retail and service employments in the Nation should not be covered by the law, for practical as well as legal reasons.

Everyone knows that the then sponsor of the bill, the able former Senator from Alabama (Mr. Black), who is now a Justice of the Supreme Court, who was the spokesman of the New Deal at that time in the Senate, not only reiterated that statement, but also in various remarks upon the floor of the Senate made it completely clear that under the principle of the bill, as he saw it, which was consistently maintained, retail enterprises within States serving local communities, and service establishments also serving local communities, could not be properly covered by such legislation. So the first departure from principle is this, in which the advocates of the bill have far outstripped and left behind and pushed off the left end of the bench the sponsors of the New Deal.

Secondly, I wish to invite attention to the fact that there is no principle which runs through the bill, because while it is asserted that the effort of the sponsors is to bring within the coverage of the bill the employees in retail establishments, in service establishments, and in other activities of that kind which heretofore always have been regarded as intrastate rather than interstate activity, one finds upon reading the bill that no such thing is to be accomplished by it. Surrendering the principles with which they started, the authors of the bill, last year and again this year, have omitted practically every one of the service establishments which were included.

There were omitted from the original draft of the bill this year hotels, motels, restaurants, and motion picture theaters. I am glad they were omitted. I think all the added coverage which overstepped State lines should have been omitted. But the authors of the bill this year forgot much of the principle which animated them last year, and cut out hotels, motels, restaurants, and motion picture theaters.

The bill as it comes from the conference is even more different. I do not criticize the conferees for it. I am sure they had to do what they did or else fail in their effort, which I think was misguided in its totality. The conferees have omitted a large number of additional employees under the headings of automobile dealers, farm implement dealers, and laundries.

Certainly it cannot be said that those employees are in any different classification, in principle, from the employees who are still included under the coverage of the bill under the category of service establishments. There are very, very few indeed left within the coverage of the bill.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. HOLLAND. I shall yield to the Senator in a moment. First I wish to say that the high principle which I assume motivated the introducers of the bill even at the beginning of this session has had to be abandoned in the details I have mentioned, in the omission of practically all service establishments.

I now yield to the distinguished Senator from Ohio.

Mr. LAUSCHE. If there is no principle running through the bill, and if certain intrastate activities have been covered and others exempted, to what cause does the Senator ascribe the covering of one and the exempting of another?

Mr. HOLLAND. Mr. President, I appreciate the question. I think the answer is rather self-evident.

I believe I am not being critical of individuals when I say they are trying to get a foot in the door. They are trying to put the camel's nose under the tent. They will try, if they once eliminate the principle of exemption of all intrastate business by passage of the bill, to come back a little later and to include the other service establishment employees, other retail employees, and other employees.

I think that is made rather clear by the fact that there are still sections in the bill, as I understand the conference report, requiring the Secretary of Agriculture to make a study of pay rates in hotels, motels, restaurants, and other food service enterprises, with the intention of quickly informing the Congress at an early date, so that action may be taken.

I understand a similar provision is still in the bill which would give similar instructions with reference to those who are handling and processing agricultural products. I understood from the statement in the debate by my distinguished friend the Senator from Michigan [Mr. McNAMARA] that he understands that the

Secretary of Labor will, on his own motion and initiative, make a study as to the needs of laundryworkers. Perhaps other workers were included in the statement of the Senator with reference to the study. But he made very clear that, as one Senator, he was not giving up on the question of the inclusion of laundryworkers.

I definitely recall that my distinguished friend the Senator from Oregon [Mr. MORSE] has repeatedly stated in this Chamber that he felt most agricultural workers should be included within the purview of the bill. A few minutes ago I believe he stated that he thought the coverage of the bill was woefully short and should have been greatly increased.

So the answer to the question asked by the Senator from Ohio is that the purpose of the authors of this pruned-back bill—which, as I say, is devoid of any thread of principle running throughout it—is simply to make a beginning in breaking down the barrier which has always been recognized, both constitutionally and practically, as existing between interstate business on the one hand and intrastate business on the other hand, with the hope and expectation of very soon enlarging the coverage of the bill so as to practically wipe out State jurisdiction over employees of all classes of business within State lines.

I yield to the Senator from Ohio.

Mr. LAUSCHE. Therefore, if workers, let us say, in Ohio who are employed by hotels, motels, restaurants, farm implement dealers, automobile agencies, and laundries, believe that they will be covered by the bill, they have been deceived by the general discussion without having clearly pointed out to them the fact that they are exempted under the bill.

Mr. HOLLAND. Such workers will be disillusioned. If they have such an understanding as suggested by the Senator, that understanding is not in accord with the meaning of the bill, which clearly exempts them. As to whether they have been deceived or not I do not know, because it may be that those workers misunderstand the situation. But, as admitted by the chairman of the conferees, it is as clear as crystal that those classes have been excluded from the coverage of the bill.

Mr. LAUSCHE. If the Senator from Florida is correct in his understanding that subsequently those who are now exempted will be covered, I ask why they have now been abandoned in the present bill. Why have they not been covered under the present bill?

Mr. HOLLAND. The Senator asks a question which I can answer only by trying to interpret the motives of Senators, all of whom are my friends. But as I have understood from their frank statements in the Chamber, they have said that they could not get even a shadow of the bill passed without the exclusion of these various groups, and therefore, as they have said, they reluctantly agreed to the exclusion of those groups. Certainly they did not want them excluded, because last year the bill covered all of those workers. This year the bill

has gone back a little. Some additional workers were cut out in the Senate, though not many. Then, of course, in conference two large additional groups were eliminated. Having been a conferee myself, I suppose their elimination was a practical move on the part of the Senate conferees in order to try to get some legislation passed.

Mr. LAUSCHE. To put the problem in a different way, is it not fair to declare that exemptions had to be given to employees of hotels, motels, automobile dealers, farm implement dealers, laundries, and others? In other words, those groups that were strong shook the harness off themselves and were willing to be free, but allowed the harness to be placed on others.

Mr. HOLLAND. My distinguished and colorful friend has well stated the situation, at least as I understand it. What he has stated is exactly what happened.

Mr. LAUSCHE. Does the Senator from Florida recall that a year ago when the bill was before the Senate and the Monroney amendment was offered for consideration, an account was made on the prospect of the bill in view of the Monroney amendment? It was understood that the Monroney amendment would carry. Admittedly, on the floor of the Senate an agreement was made to exempt the interests covered by that amendment if they would in some manner release their pressure against the bill.

Mr. HOLLAND. I well remember that Senators gave assurance on the floor of the Senate, prior to the yea-and-nay vote on the Monroney amendment, that immediately after defeat of the amendment they would offer a softening amendment excluding various classes of business and workers, and they did so. They operated in complete good faith. They operated, however, in such a frank method that I believe the record clearly shows the situation was just as stated by the Senator from Ohio.

Mr. LAUSCHE. To refresh the memory of the Senator from Florida, I put the question squarely and asked the principal proponents of the bill whether an agreement had been reached that if the Monroney amendment were defeated, employees of automobile dealers, motels, hotels, farm-implement dealers, and restaurants would be exempted. The answer was, "Yes."

Mr. HOLLAND. I have some recollection of the subject mentioned by the Senator from Ohio. I think events occurred as he has stated them.

To restate the problem, any feeling on the part of anyone that there is a cohesive principle that now runs through the bill is mistaken because there is not. The bill is based upon expediency and power. The effort is to make a beginning at breaking down intrastate jurisdiction, and the supervision and control of States over businesses which serve their own people, and with which the members of the legislature are most familiar, so that they can take appropriate action, if any is required.

As the Senator well knows, no 2 of the 20-odd States which have enacted State wage-hour laws have adopted the same standards, because the stand-

ards of State laws have been based upon the habits, demands, methods of trade, character of employees, and standards of pay which are applicable in their communities. Several of such States, recognizing that the same standards do not apply in the large cities as apply in the country towns, have adopted variable standards, some of which are applicable in large cities, some in medium sized cities, and some in small towns and villages. I believe they have every right to do so, because they are answerable to their own people and they know their own people's customs.

I do not believe it is possible for the long arm of the Federal Government to reach out from Washington and properly to control, supervise, and regiment—that is the real word—the operation of every business in this Nation. What I have said is exactly the policy and philosophy of those who are behind this proposal, even though they have very greatly departed from this philosophy in many of the specific terms of the bill.

I close by saying that situations in this country are varied because it is a varied country. Employees in certain businesses in my State, for example, must compete with employees in the seasonal hotels, who are well paid; with the employees in the seasonal agriculture businesses, who are well paid; with the employees at Canaveral, Eglin Field, or the Jacksonville Naval Air Complex, Key West, or the various other places where Uncle Sam has many thousands of people employed. Obviously no employer can retain employees who are of sound mind and body, ambitious, and able to do something, without placing them under a wage structure that is somewhat comparable to that which they can receive in other businesses. The same situation does not obtain in every other State. That is the point. No two States ought to be regimented under identical provisions in their trades and businesses.

In closing, I remind the Senate that we have been asked to restore the competitive position of many of our products in world markets. We are now being asked in the bill to make that impossible by artificially raising wage rates. We have been asked to maintain a stable dollar, and we are being asked by the bill now to run in exactly the opposite direction. We have been asked to help the plight of the unemployed. My distinguished friend from West Virginia [Mr. RANDOLPH] has made a valiant and wonderful battle for reemployment agencies, in which he was greatly interested. I remind him that one of the major causes of unemployment in the coal mines of his State has been the terrific increase in the wage rates which came about through collective bargaining, and not through any State law. The result is that coal can no longer compete with some of the other products with which it is in natural competition.

Mr. President, we are being asked by the bill to undo things that we have done in these three fields, and to go a long way toward destroying anything we can do to accomplish anything in these fields.

I know what will happen on the floor of the Senate. However, I want the RECORD to speak clearly of my feeling that the bill is based on an unsound philosophy, which will break down a great American principle. It should not be passed, because it will place vastly increased responsibilities upon Congress, already overloaded, and upon the National Government, which already cannot do a good job in many fields, because it is too big.

I yield the floor.

Mr. McNAMARA. Mr. President, I find myself in the position of wanting to yield to both the Senator from New York and the Senator from North Carolina. However, the Senator from New York has been on the floor the longest, and I yield to him now.

Mr. JAVITS. I shall take only a few minutes. My reason for speaking is to answer precisely some of the conclusions stated by the distinguished Senator from Florida [Mr. HOLLAND]. I have had a great many businessmen, especially in the retail field, come to me to ask, "Why are we included?" Of course, only large businesses really in interstate commerce are included. Their competitive conditions important to the economic life of our State become important.

Large States like New York, which are the home of businesses which engage in large-scale business, and especially States like New York which can lose business to low-wage States—are very much interested in having established some kind of concrete wage base which recognizes existing standards of living. Accordingly, this legislation is critically important to the economy of my State of New York and to the economy of other States which maintain high labor standards.

Secondly, a great argument has been made about the humanitarian qualities of the bill. Certainly that is an extremely important point. I should like to join those Senators who have protested the elimination of 140,000 laundry workers from the bill; it represents a disservice to the cause of the American working man in general. I certainly hope the omission will be corrected. I do not have in mind, Mr. President, any foray again to increase the minimum wage which will start the day after this bill becomes law. The bill itself, of course, takes 5 years to be fully implemented. That will give it every chance to develop. However, I do feel that we must take care of inequities which are manifest, as in the case of the laundry workers and the nontipped hotel, motel, restaurant, and food service workers.

With respect to the question of competition, I should merely like to say this: The fact that we in America have high wage scales is attributable to two things. One is high consumption. However, even more important—and particularly because a reasonable argument has been made which must be answered—is the fact that our high wages are attributable to the great efficiency and automation and the high productive power of American workers. If this bill becomes law—and I am certain it will become law—it should not become law without

a word for American labor, because without speaking now on American labor we would not be doing our duty.

This bill was sought by American labor, and in asking for the bill American labor has implied a pledge that when it comes to a great many decisions, whether they deal with automation or imports, or the number of hours people work, or the intensity with which they work, and whether that be in connection with "featherbedding" decisions under laws or practices, or by way of bias and discrimination—which still persists, I regret to say, even though rarely, in some segments of American labor—I believe that labor, by seeking the enactment of the bill, impliedly undertakes that it will do its utmost to respond on its part with the needed productivity and the highest morale.

By this bill we have shown our confidence in the American labor movement. I believe very much that the American labor movement will hear my plea and other similar pleas made to it and show its confidence in us.

Mr. JORDAN. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Florida [Mr. HOLLAND] on the conference report.

When the bill was debated on the floor I supported every amendment that would omit filling stations, laundries, and similar businesses from the bill. I supported every amendment that would have taken those businesses out of the bill. We were unsuccessful in connection with every one of those amendments. I voted in favor of the bill with the understanding that the bill would be greatly improved in conference.

In conference it was improved to some extent, but not to the extent that makes it possible for me to vote for the conference report, and, therefore, I shall have to oppose it.

There are two or three good reasons for my opposition, which I wish to state. One of them is in answer to the Senator from New York, who has referred to cheap labor competing with operations in his State, and so forth. Every plant in New York State and in any other State operates under the same minimum wage which is applied in every State of the Union, because it is covered by the present law in interstate commerce. There is no cheaper scale in North Carolina than in New York. There is nothing to that argument.

I cannot conscientiously vote for any bill which would set up two wage scales for the same class of people doing the same kind of work. I do not care whether it is a small store or a large store, there should not be two scales for businesses selling the same kind of merchandise. Whether a company operates 1 store or 50 stores, if the stores are selling the same kind of merchandise, they ought to have the same kind of wage scale applied to them. The Interstate Commerce Commission has jurisdiction over stores which do business in interstate commerce. I believe that is right. I do not see anything wrong with it. I believe business has profited by it. I believe that has been of great help to

people in connection with business being done in interstate commerce.

If we take the case of one store which does \$250,000 worth of business and another which does a million dollars' worth of business and say that they will operate under two different wage scales, it is unlawful, in my opinion, and I do not believe that it would be constitutional to do so.

There are some who have said they thought the Supreme Court would invalidate title 3 of the bill. They have much more faith in the Supreme Court than I have, because recent decisions which that Court has made do not indicate that the Court will act on that basis whatsoever.

If it were necessary to pass a law of this kind, if we had to go into the question in this way, in my opinion, it should have been done on the basis that every single industry covered by the law operates on the same wage scale.

My State has a minimum wage scale of 75 cents an hour. I do not say that that is enough, by any means. I know it is hard to make a living on 75 cents an hour, but many people are doing it. I am certain that if the bill is passed, many persons will lose their jobs and will be on relief, instead of earning their own living. Many persons are beyond the age when they can easily find new jobs in industry, in stores, and other places. I am certain that if the bill is passed, many of those persons will lose their jobs. I cannot be a party to putting them out of work when I know that that is what will happen if the bill is passed. The same is true of schoolchildren who work on Saturdays and holidays.

Mr. President, I cannot support a bill which I am certain will hurt many persons. I think we should act here to help them instead of to hurt them.

I think it is unfortunate that the bill is before us now. The United States is being plagued, as it never has been before, with foreign competition in the form of products manufactured by workers whose wage scales range from 20 cents an hour downward. To raise the wage scales of American workers would put the U.S. manufacturers further out of competition with foreign companies. To me, that simply does not make good sense at this time. Perhaps at a later time the minimum wage scale should be raised, but I do not think this is the time to do it.

Mr. President, much as I dislike to oppose a bill which the President and the administration wish to have passed, I cannot conscientiously support a bill which I know will cause injustice to many persons. Therefore, I shall not support the bill.

Mr. MILLER. Mr. President, will the Senator from Michigan yield?

Mr. McNAMARA. I yield.

Mr. MILLER. I voted against the passage of the bill in the Senate. For the reasons which the distinguished Senator from Florida has advanced, I shall vote against the conference report. However, for the purpose of having the legislative intent established on a cou-

ple of provisions in the bill, I wish to ask some questions.

The bill provides, for example, that if a business does \$1 million in annual gross sales, then there will be coverage under certain conditions. The definition of the word "annual," I think, needs to be amplified.

If I am a businessman and am reporting, for income tax purposes, on a calendar year basis, does it mean a calendar year for income tax purposes?

Mr. McNAMARA. The definition of "annual" is spelled out in the report. It does not refer to the income tax year, because there is some variance in that by special provision. So the income tax year is not tied into the bill.

The Senator will notice that on page 3, in the section numbered 8, the measure of annual dollar volume of sales is spelled out in great detail, but it makes no reference to the income tax year; simply to the 12-month calendar year.

Mr. MILLER. In other words, if I am a businessman and am reporting on a fiscal year basis, and the fiscal year ends on June 30 for income tax purposes, I cannot use my gross income volume for that income tax year in computing my coverage under the bill?

Mr. McNAMARA. In any given quarter in which one wishes to determine whether he is covered, he may take the preceding 12 months. He has control over the period to that degree.

Mr. MILLER. Perhaps that answers my next question, but I should like to ask it anyway, in order to be certain.

If one operates on a calendar year basis, and on December 1 his accountant tells him that he has done business amounting to \$950,000 in gross volume, must he reduce his payroll for the month of December, lest he come under the law for the whole calendar year; and if by the end of December he has exceeded the amount, must he go back for the whole year and pay overtime?

Mr. McNAMARA. Apparently one can get a ruling on the basis of the prior year before he goes into the period with which he is concerned.

Mr. MILLER. If for the prior year one had a gross volume of \$950,000, may he go ahead, in the following year, and do \$1,500,000 in gross volume and not be covered?

Mr. McNAMARA. That depends on the quarter in which one determines to get a ruling. This is a hypothetical question; it is hard to answer it definitely. If one does a volume of business of \$950,000 a year, in the next quarter with which he is concerned he would not be covered.

Mr. MILLER. But he would be covered in the second succeeding quarter?

Mr. McNAMARA. If the previous 12 months, including the quarter about which the Senator is now talking, were included in the 12 months, the answer is "Yes."

Mr. MILLER. Then, is one covered from that point on, or is he covered for the quarter which brings him into the \$1 million class?

Mr. McNAMARA. If that quarter brings him into the year, he is covered for the year.

Mr. MILLER. Starting with the following quarter?

Mr. McNAMARA. That is correct; for the year starting from that point.

Mr. MILLER. Suppose the fluctuation is downward in the following quarter, so that the previous 12 months would bring one under the \$1 million volume. Is he not then in a position to be safe until he gets into another quarter which, added to the previous three quarters, brings him up into the \$1 million bracket?

Mr. McNAMARA. Yes, in the total year at any point in the calculation.

Mr. MILLER. I thank the distinguished Senator from Michigan.

Mr. McNAMARA. The Senator is entirely welcome.

Mr. President, I am glad to yield to the distinguished minority leader, who, I understand, wishes to make a statement.

Mr. DIRKSEN. Mr. President, first I pay a compliment to the distinguished Senator from Michigan, who was chairman of the Senate conferees and chairman of the subcommittee which handled and reported the bill to the full committee. He has been gracious; he has been indulgent; he has been demanding, I must say; but he has been very, very gracious, indeed, throughout the hearings, even though I did not have the opportunity to present all the witnesses I had hoped might be heard before the committee. With equal grace, of course, the Senator from Michigan conducted himself and the business of the Senate in the conference committee. So for his affability, his good nature, and his indulgence—up to a point—I congratulate him and pay to him a compliment which he richly deserves.

Mr. McNAMARA. Mr. President, if the Senator will yield, I wish to thank him sincerely for his most gracious remarks. I have previously said that I appreciate the cooperation of the distinguished Senator from Illinois and the other Senators on the minority throughout the proceeding.

Mr. DIRKSEN. Mr. President, I shall not support the conference report. Whether there will be a demand for a yea and nay vote, I do not know. I shall not make such a demand; but I shall not support the conference report.

I think there is too much logic on the side of the distinguished Senator from Florida [Mr. HOLLAND], who spoke about the lack of any clear cut, uniform or philosophical pattern in the bill. It simply is not there. All one has to do is to look at the list of exemptions. I am always glad to be indulgent and to go along with people who will be adversely affected and perhaps injured or damaged, but when we see the long list of exemptions which are being filed, and consider how they seem to increase year after year, it gives one a pretty fair idea that there is a great deal of expediency about the bill.

Nothing rises up to attest that fact better than what happened to the laundry workers. Without being invidious, without violating Senate rules or casting aspersions on any individual, because always they shall remain nameless, I

think the whole wide world ought to know the expedient manner in which the conference report was approached. When we got to the laundry workers, it was obvious what happened in another body, which shall remain nameless, because I cannot use the name, under the rules of the Senate. However, the whole world knows that an amendment was offered on the floor of that nameless body with respect to the laundry workers, so they were removed from the bill.

The Senate did otherwise; and here I can speak more freely in identifying the body which took the action.

But when we got to conference, there was a very distinguished legislator, who shall remain nameless, so that his glory shall never be tarnished or his legislative record impugned, who said, "Now, gentlemen of the conference, we might just as well be practical." The word "practical" is a great one, Mr. President. What he should have said was, "We shall just be political."

He said, "You know you won't get a conference report adopted if you leave in the bill the laundry workers coverage provision." He said, "I go even farther than the distinguished Senator from Oregon with respect to the inclusion of laundry workers. But I am practical."

What he meant was that he was political. He amplified his statement, and said, "It is a case of getting votes for the conference report." So, Mr. President, you see there is some expediency in connection with this matter.

I know of no reason why the laundry workers should not be included when all other workers are included. I know of no reason why at the outset we should not have included the hotel workers and the motel workers. I know of no reason why we should not have included the implement dealers and the automobile dealers. They are dealers. I have heard something said about "dealing," and about how those groups finally got out from under the aegis of this bill. But they did.

So you see, Mr. President, when an attempt is made to spell out the thread of uniformity, it simply is not there. Restaurants are excluded. I think local retail business is involved when one goes into a restaurant and sits down at the counter, and a very gracious young lady brings a glass of water and the menu, and you say to her, "I will have eggs, sunny side up, with a great big slice of Kentucky ham." When those golden eggs and that delicious piece of ham begin to traverse your alimentary canal, I believe that can be considered interstate commerce. [Laughter.] But, you see, under this measure they are exempt from coverage, for it exempts from coverage restaurants, drugstore food counters, caterers, and similar retail services.

Motion picture theaters are also exempt. However, this measure contains a provision which states that coverage extends to something that is handled or touched or moved in interstate commerce. The word "moved" is a very selective one. It may be that the celebrated rocking chair we have been hearing about—and I saw it the other day—may have moved in commerce in 1812.

But now it has come to rest in one place. However, if it comes within the \$1 million provision and the \$250,000 cutoff, that old rocker is in interstate commerce, according to this measure. To me, that is a rather astounding state of affairs.

So far as motion picture theaters are concerned, all motion picture films which have moved in interstate commerce are covered, unless they have come out of the rarefied atmosphere of Hollywood, or wherever such pictures are made. The coverage will extend even to the films we make in room T-2, where we exhibit our statesmanship to our constituents back home. According to the bill, all those films move in interstate commerce; and if they are shown in a motion picture theater in my hometown or elsewhere, they are regarded as being in commerce. But the motion picture theaters are exempted from the coverage of this bill.

Mr. President, one could go on, and could further examine the bill for the thread of uniformity, which a lawyer almost invariably learns about in law school. But I say to the distinguished lawyer from Florida that he is eternally and eminently correct: there is no uniformity, there is no philosophical uniformity, in this bill. That is the reason why the laundry workers are not covered by it.

So we were told that the conferees had to be "practical." Mr. President, that is a great business; I love the word "practical." We had no great difficulty in that instance, except for one thing: The noncovered workers will get what we refer to as "the old stretchout." You see, Mr. President, if they are not covered now, but if they will be covered by means of this measure, the first year their minimum wage will be \$1, but they will not receive any overtime pay. The second year, their minimum wage will still be \$1, and still they will not receive any overtime pay. The third year, their minimum wage will still be \$1; and then the overtime pay will begin, after 44 hours. If that is uniformity, I have never seen it. I will bet there are in the Nation many people who will say, "Just wait until the House and the Senate vote for the conference report and the distinguished President signs the bill into law. Then we will be covered, and we will go to the boss, the next morning, and will say to him, 'We are now under the new minimum wage law.'" But the boss will say, "I've just looked at it; and in the first year you won't be covered, beyond \$1. In fact, you will have to wait until the fourth year before you will even get up to \$1.15."

Mr. President, let there be no disillusionment about this measure, let there be no embracing of an illusory hope, because they will be fooled under this "stretchout."

Perhaps some of these good folks will say, "Well, from now on, now that the Senate and the House, with their omniscience and wisdom, have given us a new law, we will get the benefits of overtime." So they will go to see the manager. He will say to them, "I am sorry; but I just took a look at the new law,

and there isn't going to be any overtime for the first year."

They will reply, "Well, that's funny." Perhaps they will wait; and if patience stays with them, the second year they will ask, "How about the overtime?" And the boss will again look at the new law, and will reply, "Well, if I can read the English language and if I can tell what those Senators and Members of the House of Representatives have done, there isn't going to be any overtime for the second year, either."

Mr. President, someone is going to be fooled; but I am not going to fool them. I have been here too long and I have gotten to be too old in this business to go around fooling people. So I am not going to disillusion them and I am not going to fool them. But that is "the stretchout" in this measure, as regards those who are going to be covered for the first time.

Mr. President, the conference report does not cure the difficulty I find with this measure.

I must say for the House that it accepted with alacrity what we have done. That was good work, PAT.

I remember the story about the boss who said to the worker, "Did you do that work with alacrity?"

The worker replied, "No, I did it with a shovel." [Laughter.]

Well, Mr. President, that is what we did here; we did it "with a shovel," because out of 30 major items, the House—and I will not say who it was in the House—said, "We concur in the Senate view."

Of course, Mr. President, it builds up our ego, when another legislative body says, "We concur in the wisdom of the Senate." That makes us feel that, somehow, we know something about this business. But the basic difficulty still remains: It is the expansion of Federal power, about which I wish to express my alarm. How easily we embrace such business.

One of the things Oswald Spengler said—and he had one of the greatest brains in several centuries—when he wrote the monumental book "The Decline of the West" was that he could not quite understand the amazing fidelity of the American people to the Constitution of the United States and its effect in the swing of world affairs.

That, Mr. President, from Oswald Spengler, who took particular note of the Constitution and its effect—a man who was ready to look down the road beyond the year 2000, and longer, and to talk about the impairment and the disappearance of civilization; and then to come back and to single out one great thing, the Constitution of the United States, and to comment on it, and talk about its cohesive force and its effect upon the United States of America, and its greatness.

And today we see a further erosion. Senators can employ all the semantics, all the words in the law books, all the clichés, all the fancy phrases, all the quips they can find in court opinions, and they can examine what comes from on high in the opinions of the great tribunal—it still does not argue the fact

that there is not before us today a further erosion of one of the most important clauses in the Constitution.

Embrace your expediency, Mr. President, if you will. Follow the political course if you will. Believe me, this speech is doing me no good today, coming from an industrial State; but it is important, because of the legacy that this generation is going to have to transit to those who come after. And I am not going to be one to tarnish and weaken and sully the Constitution any further, when I have such a redoubtable authority as Oswald Spengler on my side, who pointed out what the Constitution really meant.

Yes, Mr. President, that is high authority, because testimony has been given to the capaciousness and magnitude of his brain, and he called the turns of history before he died. He was one of the great students and scholars of all time.

Mr. President, that question is what is before us today. The Constitution is not going to die by frontal assault. The destroyers are too smart for that. No, it is the enfilading attacks that come first from one side and then from the other; it is the easy erosion. It will be said, "Oh, we are not doing anything about it. We are not changing the words in the Constitution."

Mr. President, that is not important. How they are applied is important. Oswald Spengler, when he wrote his great book on the Constitution, established that principle. Do not talk about its authority; talk about its application; then we will understand how we go down the easy road.

We have witnessed in recent days a dictator standing before 1 million people and asking the question, "Do you want elections?" Then we have witnessed the people saying, "No," in a great cascading chorus. Oh, how easy people extend their hands and say, "Put on the shackles." So, little by little comes this erosion.

Mr. Chairman, I am sorry; I cannot go down that road with you. I cannot do it because I would be violating a fundamental and essential principle.

I would add one other thing. Put all these provisions together, and if you think, Mr. President, we have been a nation of bookkeepers, what will we be later when we have to separate and set out the items that move from Illinois to Indiana in commerce, and ascertain whether they amount to \$250,000, and then ascertain what to do about the \$1 million gross? What separations will have to be made and what books will have to be kept. It was said once that England was a nation of shopkeepers. We can say in truth and candor that we are going to become a nation of bookkeepers, whether we like it or not. I rather rebel at the thought. But there are penalties that go with the failure to carry out the responsibility under this act.

Therefore, Mr. President, I shall take no further time, except to say to my congenial chairman: Perhaps I ought to congratulate you for getting the bill

before us this year. I did my best to stop it before, as the Senator knows. I did not succeed. I always had one hope before, because, then having made the best fight of which I was capable, I could then say, "Well, if we can only get one-third plus one, maybe we are still safe." I cannot say it any more, I deplore it.

So I pay my compliment to the chairman, and express my regret that I cannot be a party to a bill that makes such a deep inroad into the organic, fundamental law of the country.

Mr. President, in connection with these remarks, I think it might be well to put in the RECORD a summary of the bill as agreed to in conference.

Mr. McNAMARA. That has been done.

Mr. DIRKSEN. I understand it has been done. If nobody will say that I am wasting the taxpayers' money, I think it might be well to put it in the RECORD a second time, in connection with my remarks.

Mr. McNAMARA. I have no objection.

Mr. DIRKSEN. Who knows, I may want to get it printed at public expense and get it sent out to the taxpayers.

So I ask unanimous consent, in order to round out my own remarks, to include this summary in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MINIMUM WAGE BILL (H.R.3935) AS AGREED TO IN CONFERENCE

NUMBER OF EMPLOYEES

A. For presently covered employees (23.9 million), the minimum wage is increased to \$1.15 an hour for the first 2 years after the effective date and \$1.25 an hour beginning 2 years after the effective date.

B. For newly covered employees the minimum wage and overtime will be as follows:

First year after effective date, \$1, no overtime requirements.

Second year after effective date, \$1, no overtime requirements.

Third year after effective date, \$1, 44 hours a week.

Fourth year after effective date, \$1.15, 42 hours a week.

Fifth year after effective date, \$1.25, 40 hours a week.

C. Retail trade:

1. Retail and service enterprises: The bill covers retail enterprises which have a million dollars or more in annual sales (exclusive of excise taxes at the retail level) and which purchase or receive goods for resale that move or have moved across State lines which amount in total annual dollar volume to \$250,000 or more—2,182,000 employees.

2. Gasoline service stations: Also covered for minimum wage, but not for overtime, are gasoline service stations which have \$250,000 or more in annual sales (exclusive of excise taxes at the retail level)—86,000 employees.

3. Exemption from retail coverage: From this coverage in the retail trade the bill excludes the following:

- (a) Auto dealers and farm implement dealers.

- (b) Hotels.

- (c) Motels.

- (d) Restaurants, including retail store lunch counters, caterers and similar retail food services.

- (e) Motion picture theaters.

- (f) Hospitals.

- (g) Nursing homes.

(h) Schools for handicapped or gifted children.

(i) Amusement or recreational establishments operating on a seasonal basis.

(j) Any small store which has less than \$250,000 in annual sales even if it is in an enterprise that has more than \$1 million in annual sales.

4. Special provisions for retail trade: In addition the bill makes the following special provisions for particular problems in the retail and service trades:

(a) Commission employees in retail stores will be exempt from overtime if more than half their pay is from commissions and if they earn at least time and one-half the minimum rate.

(b) Assistant managers of retail stores will be exempt even if they perform up to 40 percent nonexecutive and nonadministrative work.

(c) Student workers may be employed in retail trades at subminimum rates under certificates issued by the Secretary in occupations not ordinarily given to full-time employees.

D. Laundries: The conference agreement has removed the proposed new coverage and the changes in exemptions for laundries that were contained in the Senate-passed bill. Laundries therefore remain in the same position as they were under the present law.

E. Transit companies: Suburban and interurban transit companies which have \$1 million or more in annual sales (exclusive of excise taxes at the retail level) are covered for minimum wage but not for overtime—93,000 employees.

F. Establishments which already have some covered employees under the act are covered for all their employees if they are in an enterprise which has a million dollars or more in annual sales—10,000 employees.

G. Construction: Construction enterprises which have at least \$350,000 in annual business are also covered for minimum wage and overtime—1 million employees.

H. Seamen: Seamen on American-flag vessels are covered for minimum wage but not for overtime—100,000 employees.

I. Telephone operators: The exemption for telephone operators is limited to those employed by an independently owned public telephone company which has not more than 750 telephones—30,000 employees.

J. Fish processing: Seafood processing employees are covered for minimum wage but not overtime (seafood cannery are treated in this way under the present law)—33,000 employees.

Total number of newly covered employees: 3,624,000.

K. Other provisions:

1. Puerto Rico: The minimum wage in Puerto Rico for presently covered employees is increased by the same percentage as the mainland minimum, subject to review by industry committees in hardship cases; for newly covered employees the rates will be set by industry committee procedures.

2. Broadcasters: Announcers, news editors and chief engineers of broadcasting companies located in nonmetropolitan cities of 100,000 or less population are exempt from overtime.

3. Bulk petroleum dealers: Independently owned and controlled local enterprises engaged in bulk petroleum distribution are exempt from overtime if their annual sales are less than \$1 million (exclusive of excise taxes).

4. Trip rate: Trip rate drivers and drivers' helpers making local deliveries are exempt from overtime if the Secretary of Labor finds that the plan under which they are paid is consistent with the principle of the 40-hour workweek.

5. Farmer's livestock auction operations: Employees working in a livestock auction held by a farmer need be paid the minimum

rate only for the hours they work at the auction if during that workweek they are employed primarily in agriculture by the farmer.

6. Country elevators: Employees in country elevator establishments in the area of production, which may also sell products and services used in the operation of a farm, are exempt from both minimum wage and overtime if no more than five employees are employed by the establishment in such operations.

7. Cotton ginning: Employees engaged in ginning cotton for market in counties where cotton is grown in commercial quantities are exempt from minimum wage and overtime.

8. Holly wreaths: Homeworkers making natural holly wreaths are exempt from the act.

9. Shade-grown tobacco: An exemption from minimum wage and overtime is provided for agricultural employees engaged in bulking shade-grown tobacco if they were employed in the growing and harvesting of such tobacco.

10. Transporting fruits and vegetables to market: An exemption from minimum wage and overtime is provided for employees transporting fruits and vegetables from the farm to market or transporting harvesting hands, within the State.

11. Board and lodging may be included as wages on the basis of a fair value calculation made by the Secretary: Also, such perquisites may be excluded from wages to the extent that they are excluded under a collective bargaining agreement.

12. Study of employment effects of foreign trade: The Secretary is authorized to study employment effects of imports and exports in industries covered by the act and to report on such studies to the President and to the Congress.

13. Study of certain exemptions for canning and processing and of wage rates in hotels and restaurants: The Secretary will study the complicated system of exemptions in the act for the handling and processing of agricultural products as well as the rates of pay in hotels, motels, restaurants and other food service enterprises and to report the results with recommendations to the next session of this Congress.

14. Effective date: 120 days after enactment.

Mr. DIRKSEN. With that summary added to my remarks, and with my day in court, I must be content to let the wheels grind, and have the conference report go to its destination.

Mr. COTTON. Mr. President, I ask for the yeas and nays on the conference report.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Oklahoma [Mr. KERR], the Senator from Hawaii [Mr. LONG], and the Senator from Oregon [Mrs. NEUBERGER], are absent on official business.

I further announce that, if present and voting, the Senator from Connecticut [Mr. DODD], the Senator from Hawaii [Mr. LONG], and the Senator from Oregon [Mrs. NEUBERGER], would each vote "yea."

On this vote, the Senator from Oklahoma [Mr. KERR] is paired with the Sen-

ator from New Hampshire [Mr. BRIDGES]. If present and voting, the Senator from Oklahoma would vote "yea," and the Senator from New Hampshire would vote "nay."

Mr. KUCHEL. I announce that the Senator from Connecticut [Mr. BUSH], the Senator from Arizona [Mr. GOLDWATER], and the Senator from Kansas [Mr. SCHOEPP] are necessarily absent.

On this vote, the Senator from Connecticut [Mr. BUSH] is paired with the Senator from Arizona [Mr. GOLDWATER]. If present and voting, the Senator from Connecticut would vote "yea," and the Senator from Arizona would vote "nay."

The Senator from New Hampshire [Mr. BRIDGES] is detained on official business, and is paired with the Senator from Oklahoma [Mr. KERR]. If present and voting the Senator from New Hampshire would vote "nay," and the Senator from Oklahoma would vote "yea."

The result was announced—yeas 64, nays 28, as follows:

[No. 36]

YEAS—64

Alken	Hart	Morse
Anderson	Hartke	Morton
Bartlett	Hayden	Moss
Beall	Hickey	Muskie
Bible	Hill	Pastore
Boggs	Humphrey	Pell
Burdick	Jackson	Prouty
Byrd, W. Va.	Javits	Proxmire
Cannon	Johnston	Randolph
Capehart	Keating	Saltonstall
Carroll	Kefauver	Scott
Case, N.J.	Kuchel	Smathers
Chavez	Lausche	Smith, Mass.
Church	Long, Mo.	Smith, Maine
Clark	Long, La.	Sparkman
Cooper	Magnuson	Symington
Douglas	Mansfield	Wiley
Engle	McCarthy	Williams, N.J.
Ervin	McGee	Yarborough
Fong	McNamara	Young, Ohio
Gore	Metcalf	
Gruening	Monroney	

NAYS—28

Allott	Dworshak	Mundt
Bennett	Eastland	Robertson
Blakley	Ellender	Russell
Butler	Fulbright	Stennis
Byrd, Va.	Hickenlooper	Talmadge
Carlson	Holland	Thurmond
Case, S. Dak.	Hruska	Williams, Del.
Cotton	Jordan	Young, N. Dak.
Curtis	McClellan	
Dirksen	Miller	

NOT VOTING—8

Bridges	Goldwater	Neuberger
Bush	Kerr	Schoeppel
Dodd	Long, Hawaii	

So the conference report was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H.R. 1293. An act for the relief of Djura Zelenbaba;

H.R. 1360. An act for the relief of Anna B. Prokop;

H.R. 1425. An act for the relief of Marian Walczyk and Marya Marek;

H.R. 1441. An act for the relief of certain aliens;

H.R. 1449. An act for the relief of Col. John T. Malloy;

H.R. 1710. An act for the relief of Narinder Singh Somal;

H.R. 1717. An act for the relief of Angelo Li Destri;
 H.R. 1718. An act for the relief of Jaime E. Concepcion;
 H.R. 1860. An act for the relief of Jovenal Gornes Verano;
 H.R. 2107. An act for the relief of Pietro DiGregorio Bruno;
 H.R. 2116. An act for the relief of Wanda Ferrara Spera;
 H.R. 2141. An act for the relief of Henry Wu Chun and Arlene Wu Chun;
 H.R. 2165. An act for the relief of Marie F. Balish;
 H.R. 2280. An act to provide for the withdrawal of certain public lands 40 miles east of Fairbanks, Alaska, for use by the Department of the Army as a Nike range;
 H.R. 2281. An act to reserve for use by the Department of the Army at Fort Richardson, Alaska, certain public lands in the Campbell Creek area, and for other purposes;
 H.R. 2282. An act to provide for the withdrawal from the public domain of certain lands in the Ladd-Eielson area, Alaska, for use by the Department of the Army as the Yukon Command training site, Alaska, and for other purposes;
 H.R. 2283. An act to provide for the withdrawal from the public domain of certain lands in the Big Delta area, Alaska, for continued use by the Department of the Army at Fort Greely, and for other purposes;
 H.R. 2346. An act for the relief of Maria Cascarino and Carmelo Giuseppe Ferraro;
 H.R. 2351. An act for the relief of Hans Hangartner;
 H.R. 2645. An act for the relief of Wieslaw Alice Klimowski;
 H.R. 2671. An act for the relief of Giovanna Bonavita;
 H.R. 2674. An act for the relief of Eva Nowik;
 H.R. 2883. An act to amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes;
 H.R. 2898. An act to authorize the Secretary of the Interior to sell reserved phosphate interests of the United States in lands located in the State of Florida to the record owners of the surface thereof;
 H.R. 2991. An act for the relief of Joseph Maz;
 H.R. 3146. An act for the relief of Jozef Gromada;
 H.R. 3283. An act to revise the boundaries and to change the name of Fort Vancouver National Monument, in the State of Washington, and for other purposes;
 H.R. 3371. An act for the relief of George Sauter (also known as Georgios Makkas);
 H.R. 3376. An act for the relief of George A. McDermott;
 H.R. 3489. An act for the relief of Bernard Jacques Gerard Caradec;
 H.R. 3526. An act to authorize the Secretary of the Interior to sell reserved phosphate interests of the United States in lands located in the State of Florida to the record owners of the surface thereof;
 H.R. 3722. An act for the relief of Maria Czyz Krupa;
 H.R. 3846. An act for the relief of Master Sergeant Louis Benedetti, retired;
 H.R. 4023. An act for the relief of Mieczyslaw Bajor;
 H.R. 4027. An act for the relief of Keith K. Hoover;
 H.R. 4201. An act for the relief of Evangelia Kurtales;
 H.R. 4282. An act for the relief of Casimir Lazarz;
 H.R. 4482. An act for the relief of Urszula Sikora, Radoslav Vulin, and Desanka Vulin;
 H.R. 5416. An act to include within the boundaries of Joshua Tree National Monu-

ment, in the State of California, certain federally owned lands used in connection with said monument, and for other purposes;
 H.R. 5475. An act to transfer a section of Blue Ridge Parkway to the Shenandoah National Park, in the State of Virginia, and for other purposes;
 H.R. 5500. An act for the relief of Bunge Corporation, New York, N.Y.;
 H.R. 5571. An act to provide for the addition or additions of certain lands to the Effigy Mounds National Monument in the State of Iowa, and for other purposes;
 H.R. 5647. An act for the relief of David C. Thomas, Robert W. Barber, Milton A. Chace, and Richard F. Turner;
 H.R. 5656. An act to provide for reasonable notice of applications to the U.S. courts of appeals for interlocutory relief against the orders of certain administrative agencies;
 H.R. 5765. An act to authorize the purchase and exchange of land and interests therein on the Blue Ridge and Natchez Trace Parkways;
 H.R. 6244. An act for the relief of certain members of the uniformed services erroneously in receipt of family separation allowances; and
 H.J. Res. 73. Joint resolution providing for a study by the Veterans' Administration into the problems of veterans who are elderly chronically ill, or otherwise handicapped.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred as indicated:

H.R. 1293. An act for the relief of Djura Zelenbaba;
 H.R. 1360. An act for the relief of Anna B. Prokop;
 H.R. 1425. An act for the relief of Marian Walczyk and Marya Marek;
 H.R. 1441. An act for the relief of certain aliens;
 H.R. 1449. An act for the relief of Colonel John T. Malloy;
 H.R. 1710. An act for the relief of Narinder Singh Somal;
 H.R. 1717. An act for the relief of Angelo Li Destri;
 H.R. 1718. An act for the relief of Jaime E. Concepcion;
 H.R. 1860. An act for the relief of Jovenal Gornes Verano;
 H.R. 2107. An act for the relief of Pietro DiGregorio Bruno;
 H.R. 2116. An act for the relief of Wanda Ferrara Spera;
 H.R. 2141. An act for the relief of Henry Wu Chun and Arlene Wu Chun;
 H.R. 2165. An act for the relief of Marie F. Balish;
 H.R. 2346. An act for the relief of Maria Cascarino and Carmelo Giuseppe Ferraro;
 H.R. 2351. An act for the relief of Hans Hangartner;
 H.R. 2645. An act for the relief of Wieslaw Alice Klimowski;
 H.R. 2671. An act for the relief of Giovanna Bonavita;
 H.R. 2674. An act for the relief of Eva Nowik;
 H.R. 2883. An act to amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes;
 H.R. 2991. An act for the relief of Joseph Maz;
 H.R. 3146. An act for the relief of Jozef Gromada;
 H.R. 3371. An act for the relief of George Sauter (also known as Georgios Makkas);

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 H.R. 3489. An act for the relief of Bernard Jacques Gerard Caradec;
 H.R. 3526. An act to authorize the Secretary of the Interior to sell reserved phosphate interests of the United States in lands located in the State of Florida to the record owners of the surface thereof;
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 H.R. 5647. An act for the relief of David C. Thomas, Robert W. Barber, Milton A. Chace, and Richard F. Turner;
 H.R. 5656. An act to provide for reasonable notice of applications to the United States courts of appeals for interlocutory relief against the orders of certain administrative agencies; and
 H.R. 6244. An act for the relief of certain members of the uniformed services erroneously in receipt of family separation allowances; to the Committee on the Judiciary.
 H.R. 2280. An act to provide for the withdrawal of certain public lands 40 miles east of Fairbanks, Alaska, for use by the Department of the Army as a Nike range;
 H.R. 2281. An act to reserve for use by the Department of the Army at Fort Richardson, Alaska, certain public lands in the Campbell Creek area, and for other purposes;
 H.R. 2282. An act to provide for the withdrawal from the public domain of certain lands in the Ladd-Eielson area, Alaska, for use by the Department of the Army as the Yukon Command training site, Alaska, and for other purposes;
 H.R. 2283. An act to provide for the withdrawal from the public domain of certain lands in the Big Delta area, Alaska, for continued use by the Department of the Army at Fort Greely, and for other purposes;
 H.R. 2898. An act to authorize the Secretary of the Interior to sell reserved phosphate interests of the United States in lands located in the State of Florida to the record owners of the surface thereof;
 H.R. 3283. An act to revise the boundaries and to change the name of Fort Vancouver National Monument, in the State of Washington, and for other purposes;
 H.R. 5416. An act to include within the boundaries of Joshua Tree National Monument, in the State of California, certain federally owned lands used in connection with said monument, and for other purposes;
 H.R. 5475. An act to transfer a section of Blue Ridge Parkway to the Shenandoah National Park, in the State of Virginia, and for other purposes;
 H.R. 5571. An act to provide for the addition or additions of certain lands to the Effigy Mounds National Monument in the State of Iowa, and for other purposes; and
 H.R. 5765. An act to authorize the purchase and exchange of land and interests therein on the Blue Ridge and Natchez Trace Parkways; to the Committee on Interior and Insular Affairs.
 H.J. Res. 73. Joint resolution providing for a study by the Veterans' Administration into the problems of veterans who are elderly, chronically ill, or otherwise handicapped; to the Committee on Labor and Public Welfare.

give to the people of Alaska no opportunity to participate in this program. He would give to the people of Hawaii no opportunity to take part in it and be protected by it. He would limit it only to completely interstate situations involving navigable streams. Only there could this program be invoked.

We say let us take the standard of navigable streams or navigable waters. Ever since 1865 when the Supreme Court spoke clearly on this subject it has been established that the Federal Government has undisputed responsibility for navigable waters, not limited to navigation matters. We propose to take this long-standing principle and say we are going to take care of the problem of pollution on these navigable waters wherever we find them in the United States. There is nothing radical or revolutionary about this. It is facing up to the problem and facing up to it on a national basis. I say let us defeat the amendment offered by the gentleman from Florida and do a national job on a national problem.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. I yield to the gentleman from Florida.

Mr. CRAMER. We both want to cure the problem of water pollution. With regard to the problem as to whether the Great Lakes are included in my amendment, the Great Lakes will not be taken out nor will any river forming any boundary between any two States, or coastal waters, which are excluded under present law, so the only thing excluded under my proposal would be streams flowing within the State that do not form part of the boundary between two States, which is true under present law covering streams which flow into certain waters. Alaska would be included because of its border with Canada. I am afraid the gentleman does not understand the amendment or its effect.

Mr. EDMONDSON. I decline to yield further to the gentleman. The gentleman has completely misstated and misrepresented the amendment, I am sure unintentionally. It is quite clear to us from a reading of the amendment offered by the gentleman that it would severely restrict the scope of this program.

Mr. BLATNIK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I should like the record to be made clear that there are those of us who have been engaged in this whole matter for quite some time and there is no question in our minds what this amendment will do. What the gentleman is doing is trying to get this program down to the level of the weakest link, trying to have it operate on the lowest level. His amendment would only do this, that the enforcement section of this bill would apply to only about 4,000 bodies of water out of the 26,000 where this program is of importance.

I should like to refresh the gentleman's recollection, that at the 1960 Republican Convention when they adopted

the platform, in the section devoted to human needs and the subsection under the heading of health, they announced this pledge, that they are for strengthening Federal enforcement powers in abating pollution. I say the gentleman's proposal would weaken this. I hope the amendment is defeated. All it does is either constrict or restrict or obstruct or destruct. That is about all I can think the gentleman's amendment would do.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. BLATNIK. I yield to the gentleman from Florida.

Mr. CRAMER. With regard to the streams that would be included under this amendment, are not my remarks correct that the Great Lakes would continue to be included and that streams on boundaries would be added? There is no question about that.

Mr. BLATNIK. The gentleman's amendment would restrict it so that 80 percent of the waters would not be touched by enforcement. The gentleman gives the wrong impression. He says interstate streams would be subject to enforcement. You take the Missouri River, the shallows of the Missouri.

Mr. CRAMER. It crosses the State boundary; does it not?

Mr. BLATNIK. The Missouri is definitely an interstate stream and can be polluted from here to Kingdom Come on an intrastate basis, and there is nothing here in the enforcement section of existing law that can cause it to cease and desist unless you go downstream and prove that it came from a certain affluent.

Mr. CRAMER. There is nothing under my amendment which would prevent it from being done or to delete it; is there?

Mr. BLATNIK. Your amendment actually would prevent it.

Mr. CRAMER. It would not prevent it. It would permit enforcement on interstate streams and does not change the present situation when it comes to intrastate pollution. The gentleman knows that. It is specifically stated in my amendment, and I so state it on the floor, and if the gentleman will examine this language in the present bill, he will see that that is true.

Mr. BROOKS of Louisiana. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment, but actually I rise to clear up one point which I have already discussed to a limited extent. Of course, the committee knows I have always favored doing away with stream pollution, but on page 25 of the report, I read this language:

Thus, for all practical purposes, the new Federal enforcement provisions apply to all waters in every State.

I have an inquiry, Mr. Chairman, from a large plant which employs several thousand people. These people do use some chemicals and over the years they have developed at their own expense a lake or body of water which has been used largely for their own purposes and

to discharge some of the chemical wastes from that plant. It so happens that a portion of that water is located in Louisiana and part of it is in the State of Arkansas. I want to ask the gentleman this question: These people are disturbed about this bill. Is there anything in this bill that would make their situation worse than it is under the present law, and do they have any means of protecting themselves in a case of this sort where the work has been done at their own expense and with the tacit consent of the local people in the development of a waterway for one particular purpose, which is for the discharge of chemical wastes.

Mr. JONES of Alabama. The answer to the gentleman's inquiry is "No"—there is nothing in this bill that affects the situation you have just described.

Mr. BROOKS of Louisiana. The fact that you have this statement in the report here that this covers all waters in every State would not necessarily cover their body of water; would it?

Mr. JONES of Alabama. They are covered in the 1956 act which, of course, has been in operation since its enactment.

Mr. BROOKS of Louisiana. There is nothing then in this bill that would make conditions any more rigorous against that company?

Mr. JONES of Alabama. No, there is not.

Mr. CRAMER. Mr. Chairman, will the gentleman yield in answer to his question?

Mr. BROOKS of Louisiana. I yield to the gentleman from Florida.

Mr. CRAMER. I think the gentleman from Alabama and I have a little different opinion as to what the effect would be. It is quite obvious that the State's authority in joining with the Federal Government in cleaning up this particular stream would find that they would be substantially limited and restricted as compared to the situation under the present law. Assuming that it is an intrastate stream, the State would have nothing to say—and I will repeat it over and over again—the State would have nothing to say as to what kind of order the Secretary would issue ordering the local community to clean it up. The State has nothing to say if the local community refuses to obey the order as to whether the Federal Government shall go to the court and force it to carry out that order as they do under the present law, and I challenge the gentleman from Alabama to dispute that statement.

Mr. BROOKS of Louisiana. My understanding has been that under the present law the State is in the same position as it would be under this bill.

Mr. CRAMER. And I have explained why that would not be the case.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. BROOKS of Louisiana. I yield to my distinguished friend the gentleman from Oklahoma.

Mr. EDMONDSON. The statement of the gentleman from Florida that the States have nothing to do with the pro-

cedures under this revised bill is absolutely incorrect. The States participate in initiating the case; the States participate in the hearing boards; they name a member of the hearing board which makes the recommendation on which the Secretary acts. So it is an absolutely inaccurate statement to make in this House.

Mr. BROOKS of Louisiana. Would I be correct in saying that this particular plant would be just as well protected under this bill as it is under the present law?

Mr. EDMONDSON. Yes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida.

The question was taken; and on a division (demanded by Mr. CRAMER) there were—ayes 70, nays 151.

So the amendment was rejected.

The CHAIRMAN. Under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. THOMPSON of Texas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 6441) to amend the Federal Water Pollution Control Act to provide for a more effective program of water pollution, pursuant to House Resolution 274, he reported the bill back to the House with sundry amendments adopted in the Committee of the Whole.

The SPEAKER. Under the rule the previous question is ordered.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. McGown, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3935) entitled "An act to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes."

FAIR LABOR STANDARDS AMENDMENTS OF 1961

Mr. POWELL. Mr. Speaker, I call up the conference report on the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of May 2 1961.)

Mr. POWELL. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, on April 25, Mr. ROOSEVELT, Mr. DENT, Mr. KEARNS, Mr. AYRES and I, as the conferees designated by the Speaker on H.R. 3935, met with the nine Members of the other body who were similarly designated. Before us was the task of reconciling the differences which appeared in the measures adopted in the House and in the Senate.

During the course of the conference, the House managers were always sensitive to the views expressed by Members of this body during our full debate on H.R. 3935. In fact, the conference almost foundered because of the adamancy of our views on several matters. The Senate conferees were determined to preserve coverage of the laundry industry, as they had proposed in their bill. The special provisions with regard to shade-grown tobacco, cotton ginning, and transporting fruits and vegetables to market could have been lost if the sentiments of many of the conferees were followed. No one who fully participated in all of our deliberations can factually refute this statement.

We were particularly sensitive to the views expressed by Members of this body with regard to the treatment of newly covered employees. We knew that the imposition of a new wage standard and overtime requirements within a short period of time, as provided in the Senate bill, would be contrary to the views expressed in this Chamber by many Members. For that reason a realistically long period of adjustment for both the wage and hour requirements were demanded of the Senate conferees and they acceded in the conference report before you. You will note that a \$1 minimum wage is required for the first 3 years and no overtime requirement until the third year.

Mindful of the constitutional question raised by certain House Members, we believe that a minimum of \$250,000 goods from out of the State per store and a \$1 million sales test per chain represents a policy determination by the conferees which draws an equitable line between large enterprises and small ones, without discrimination against smaller operations due to the chance location of their branches in two or more States.

Those who will speak in opposition to this report, will attempt to discredit the labors of your conferees by implying that there was an overwhelming eagerness on the part of the House Managers to recede in favor of the bill adopted by the Senate. I will just note at this point that on a vast majority of the substantive provisions of the bills before the conferees, all of the House and Senate conferees, Democrat and Republican alike, voted unanimously 21 times to adopt the language. On items in dispute, both the House and the Senate had to recede an equal number of times or only six each. This subject will be discussed in greater detail by Congressman ROOSEVELT. Never during the conference

did the sponsor of the substitute measure that passed the House attempt to persuade the conferees that the provisions of the measure which he cosponsored deserved consideration and support.

The conference report now before you simply seeks to match the protections afforded by the Congress in 1938 in the original act with the demands and needs of the 1960's. The report on which you are going to vote contains many of the concepts and features recommended to this Congress by the President, and I believe that it has his wholehearted endorsement and support. It is a moderate bill. It is a modest bill. It is a step forward in providing minimum living standards and decent working hours for less fortunate breadwinners who cannot achieve these standards through their own efforts.

President Kennedy, as a Senator in the 86th Congress, said, "Conscience and good business sense join in demanding the enactment of this measure." He was speaking of the need for new wage-hour legislation last year. A majority of your conferees endorse this statement and stress its import and timeliness this year. We urge you to support this conference report which we have presented.

I shall have further remarks at the conclusion of this 1 hour of debate.

Mr. Speaker, at this time I yield 30 minutes to the gentleman from Pennsylvania [Mr. KEARNS], the distinguished minority member of the House Committee on Education and Labor.

Mr. KEARNS. I thank the gentleman.

Mr. Speaker, I yield 10 minutes to the distinguished minority leader of the House, the gentleman from Indiana [Mr. HALLECK].

Mr. HALLECK. Mr. Speaker, I think it ought to be understood first of all that the matter we are here discussing has been before the House of Representatives from time to time in past years. At the outset I want to say, so that we shall not subsequently hear something different, that I have supported these increases in minimum wages and extensions of coverage through the years, as have, I would say, most of the Members on both sides of the aisle.

Last year, on the recommendation of President Eisenhower and the Secretary of Labor, we adopted here after considerable controversy, a bill providing for an increase in the minimum wage of 15 cents and holding fast to the interstate commerce concept in respect to coverage. We voted for that bill. The other body passed a different bill and the bill died in conference.

This year the committee reported another bill. It provided for a 15-cent increase immediately and going to 25 cents 2 years and 4 months later, known as the escalator clause, which, as I understand it, is the administration proposal. Then it substituted for the interstate-commerce concept, in which we believe, the dollar-volume concept. When that finally came on for a vote, the House here, first in the committee, adopted the substitute offered by the gentleman from Ohio [Mr. AYRES], and then when the vote came on that in the House it was

adopted by a vote of 216 to 203. Then the vote came on the bill as amended, and the vote went then 340 to 78 for an increase in the minimum wage and for an extension of coverage. I voted for that bill.

That bill went to conference. In my opinion, there was a clear obligation on the conferees to insist on the House position. To me, it is to beg the question for the chairman of the committee, the leader of our conferees, to say that the interstate commerce concept was not urged by our conferees. My understanding is that they did urge it, but whether that is true or not, I say this with all respect, because it is known to all of us, that the House conferees, Mr. POWELL, Mr. ROOSEVELT, and Mr. DENT, were not in sympathy with the provisions of the House bill when they went to conference. The conference did not last very long, and maybe that is as it should be; I do not know.

But in any event, I think the question here on this conference report today is this: Shall the House of Representatives without firing a shot surrender its position? I say "No." I say that this conference report is no fair compromise between the position adopted by the House of Representatives and that adopted by the people on the other side of the Capitol. On the contrary it is really an abandonment of the fundamental House provision. So I say this conference report should be voted down and this bill sent back to conference to support the House position.

It is urged by the three House conferees who signed the conference report that that will mean no minimum wage bill. They predicate that upon an alleged continuing refusal by the people in the other body to accept House provisions. I just do not believe that is a fair assumption. It is an assumption I am not going to indulge because if I indulge it on this measure then I would have to say on all measures coming along that the House of Representatives might as well fold up and quit and go home and let the other body write the laws.

Of course we all know that if this conference report is voted down the chairman of the committee has no alternative but to move to appoint new conferees and to send this bill back, and it should be sent back for a fair compromise.

To state my position, and there have been lots of discussions by a lot of us about it, as far as I am concerned I am prepared to take the administration's recommendations in respect to the minimum wage and having to do with the escalator clause. Let the 15 cents go in presently as the administration recommends for those employees now covered. And then 2 years and 4 months from now, as the administration recommends and as the committee reported, let the 25-cent provision apply.

You know, as a matter of fact, if that provision prevails there are going to be millions of disillusioned people in this country who are presently covered under the Minimum Wage Act because there has been so much said about this being a 25-cent bill right now and so much printed, that they are expecting to get the 25-cent increase the minute the bill

is signed by the President. As I say, they are going to be disappointed.

Certainly, I want to say to those who may have voted against the substitute before, because they wanted to go for the escalator clause and the ultimate 25 cents, there is no reason why this position that we now take, and I take it as the minority leader, should not convince them that they can vote down this conference report and still hold fast to the interstate commerce concept, which is vitally important, with the knowledge that the escalator clause will be retained in the bill. The ultimate effect, therefore, as I see it, would be to turn down the dollar volume provision and to stick to the provision that was contained in the substitute which clearly deals with interstate commerce.

Let me just warn you, my friends, that if you adopt this substitute and create this pattern for coverage, you will, if you live a little while, see the day when the Federal Government will be reaching right down into every corner store to control it.

Let me emphasize this one thing further. If we vote down this conference report, and I hope we do because I think it is the sensible and sane thing to do to make some advance in this area that is reasonable and sound, and if it goes back to conference and the conferees bring back something that represents at least some substantial part of the interstate commerce position taken by the House as a whole by a vote and not just the position of a few people talking on the floor, then that sort of a conference report, in my opinion, would be overwhelmingly adopted in the House of Representatives.

Mr. Speaker, may I simply say that in my opinion, this is a matter involving the prestige and standing of the legislative processes and decisions of the House of Representatives. I do not say that our views must always prevail against the views of the other body, and likewise I do not think it is right or proper or fair for any Member of the House to insist that we must completely surrender to the other body and give up our right to have something to say as to what is going to be done.

Mr. Speaker, there were some provisions added in the other body at the last minute to take employees of cotton gins out of the coverage that is now presently accorded them in the act. And somebody told me they are taking out the people that make holly wreaths. Insofar as those added exemptions are concerned, I would say to the conferees on my side that those added exemptions would probably be acceptable, too. If there are people who are tremendously interested in these propositions, I do not see any reason why we ought to be obstinate about it.

Let me just sum up by saying that a vote against this conference report is not a vote against the minimum wage and the extension of coverage—not at all. Practically all of us voted for the committee bill or for the Ayres substitute, and on final passage the bill that finally passed the House of Representatives was passed by an overwhelming vote. What we do here is to simply sus-

tain the position of the House of Representatives and proceed to get good, sound legislation.

Mr. POWELL. Mr. Speaker, I yield 3 minutes to the distinguished majority leader, the gentleman from Massachusetts [Mr. McCORMACK].

Mr. McCORMACK. Mr. Speaker, the issue before the House today is a clear-cut one. Those who favor a minimum wage should vote for the conference report; those who do not should vote against it. The arguments we have heard from some on the Republican side of the House are but typical of their attitude throughout the years, offering amendments in an effort to weaken and defeat legislation, just as we saw practiced earlier this afternoon on another bill, offering amendments to weaken or destroy an effective bill.

My friend from Indiana is too alert a legislator and too good a parliamentarian to advance the argument that the vote on the passage of the bill was tantamount to instructions to the House conferees when they went into conference. That is not so. I voted for the passage of the bill upon the theory of getting the bill into conference, and my vote certainly was not to bind the conferees. The substitute as adopted by one vote in the Committee of the Whole, 186 to 185; and on the adoption of the substitute, as the gentleman said, the vote was 216 to 203, as I remember it. If the substitute had been defeated the committee bill would have been passed in the House. The gentleman from Indiana understands that as well as I do.

The conferees have done a magnificent job under the circumstances; they have brought back a bill that represents a victory for the House. So far as I am concerned, I want to see further coverage than contained in the conference report. The Senate bill extended coverage to 4,086,000 new employees. The conference bill extends coverage to 3,624,000 new employees. The Ayres-Kitchin substitute extended coverage to 1,365,000 additional employees. The House conferees have done a remarkable job.

If this bill goes back to conference, in my opinion we will never get a better conference report; if anything, the House conferees would probably have to get nearer to the bill as it passed the Senate; and, personally, I favor the Senate bill. But I compliment the House conferees for sticking up for the position of the House and seeing that the position of the House was maintained. They have done a remarkable job. I think the conference should be adopted.

Mr. KEARNS. Mr. Speaker, I yield myself 5 minutes.

(Mr. KEARNS asked and was given permission to revise and extend his remarks.)

Mr. KEARNS. Mr. Speaker, I want to reiterate the fine statement made by the minority leader, the gentleman from Indiana [Mr. HALLECK]. In the 7 years I have been a conferee of this body this is the first sham, if I can use the word, that I have ever felt was forced on the House of Representatives. We are humiliated.

Mr. Speaker, there is no one who has greater respect for the Speaker than I have, but when we went over to conference there were nine Senators. Every member of their subcommittee was a conferee. We went over with five, and the three majority members, the Chairman, the gentleman from California [Mr. ROOSEVELT], and the gentleman from Pennsylvania [Mr. DENT] were committed to the administration bill against the will of the House when we passed it here. We had no representation over there for the will of this body. We went over there with the whole thing sliced—on the Senate side and on our side.

I want to tell you this, Mr. Speaker, if that is the way we are going to run our Government we are going to be in a precarious position from here on in. It should have been debated longer. The conference should have run longer. Then, too, the fact that this House voted 340 to 78 was never considered in conference. There was one little amendment I remember Senator RANDOLPH gave in on.

So I want to tell you Members today that we face a serious situation in Government if the House of Representatives is going to acquiesce all the time with the Senate.

I would like to make one other statement here too. I feel that from here on in, Mr. Speaker, when we go to conference I would like to see the House represented as well as the Senate.

Mr. Speaker, I rise to state my reasons for opposing the conference report on the minimum wage bill.

At the outset I would like to note that as ranking minority member of the Education and Labor Committee, I was one of the five conferees named to represent the House during the meetings of the conference. The fact that the House was permitted to name only five conferees while the Senate named nine placed the House position in jeopardy from the very beginning. It was almost as if the House was determined to subordinate itself to the Senate—and this is exactly what finally happened. Thus, it was my dubious honor to sit through three sessions of the conferees which were in every respect a sham and a studied flaunting of the will of this august body. A majority of the House conferees—ADAM CLAYTON POWELL, JAMES ROOSEVELT, and JOHN DENT—were on record prior to the conference as being absolutely opposed to the bill which this House passed by the overwhelming majority of 340 to 78. It was no surprise, therefore, that the dollar volume test which was rejected by the House was rammed through by the chairman of the conference, ADAM POWELL, without any discussions whatsoever. Under this concept there is no question but what the corner grocer and the local drug-store can be brought under the provisions of the minimum wage bill at some not too distant date.

I am convinced that it is the will of the House today, just as it was a month ago, that extension of coverage should only be effected on a basis which will extend coverage to truly interstate commerce

and preserve for local and State governments all intrastate commerce and business.

It has been stated that if this conference report is rejected, there will be no minimum wage bill this year. This statement cannot be supported.

Mr. Kennedy could have had a minimum wage bill last year which would have increased the minimum wage to \$1.15 and extended coverage to an additional million employees. I am absolutely convinced that when this conference report is rejected, a new conference committee will forthwith report out a minimum wage bill which will increase the minimum rate to \$1.25 and which will extend coverage to employees of those enterprises which are engaged in interstate commerce.

Accordingly, I urge my colleagues in the House to join with me in rejecting this conference report. By doing so, we can once and for all establish the principle that Federal regulation shall not be extended to those aspects of our life which should properly be reserved to our States and local governments.

Mr. POWELL. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. DENT], a conferee.

Mr. DENT. Mr. Speaker, I listened to the remarks of the minority leader and I noted that he took the position that in conference the members of a conference committee are supposed to stand solidly behind the position taken by the House that named them as conferees. If that were true, what would be the need of having conferees? What would be the need of the Senate naming its conferees and the House naming its conferees if both were adamant in the position they would accept only that which they believed was a dictate from their body? We all know a conference is set up to try to iron out the differences between the two bodies. Very frankly, the personal attitude of any member of the conference committee has nothing to do with what is to be done within the conference.

Mr. Speaker, we were there to decide the issue between the House version and the Senate version. We were not there to decide the issue between two or more versions of the House. That has nothing to do with a conference aimed at trying to pass a compromise piece of legislation. Any person who believes this type of legislation can ever be passed without a compromise has no knowledge whatsoever of legislative procedure. For a minute I thought that the minority leader was against all compromise and adamant in the position for the particular bill he thought the House ought to stand for, but I noticed in the end, before he left the floor, he did agree that the committee should accept the last minute amendments offered by the Senate, which was a compromise and which would leave out the slaughterhouse employees, the holly wreaths, the cotton gin amendments, and the grain elevators. In fact, he would compromise to that point where the votes would be worth a compromise.

We did not work on that basis, and in order to give the truth to the matter

in relation to what we did to protect the House bill, let me say that we started out with a House version. This House version in two items of exceptional importance were these: The House set a minimum wage at \$1.15, without any escalation. The Senate set the minimum wage at \$1.15 for 2 years after the effective date, and \$1.25 thereafter.

The conferees on the part of the House facing this same adamant position of the Senate that was expected from us fought until we worked out a program which now sets the minimum wage for the newly covered employees at \$1.25 after 2 years and 4 months. However, when we went into the new coverage, which is the important bone of contention at this time, we found that the House set the minimum at \$1 without any escalation, the Senate set the minimum at \$1 the first year, \$1.05 the second, \$1.15 the third, and \$1.25 thereafter.

Your House conferees were able, because of their diligent approach to the proposition and staying on the job in conference every minute that the conference was called, to work out a compromise.

Now, you can have a 1-day conference and work for 8 hours a day, or you can have a conference for 8 days working 1 hour a day. It does not make any difference how long the conference lasts. It all depends upon what you are doing on the job.

Now, when we came out of conference we started the first years after the effective date with \$1. We did not increase the minimum for 3 years afterwards. After 3 years we entered the figure of \$1.15 and we reached \$1.25 at the end of 5 years. That is neither the House version nor the Senate version. It is a compromise version, and compromise is the purpose for which the conferees are gathered together.

Now, let us go into the overtime. The House of Representatives sent a bill over there with no overtime for newly covered employees. Of course, that is no bill, because you do not need a bill not to give overtime coverage to new employees, because there is no overtime now. You can just sit tight and not do anything. What did the Senate do? The Senate passed a bill in which they set up overtime for the first year at 44 hours, the second year 42 hours, and the third year 40 hours.

I just want to cover that feature. Our compromise which is in the report before you establishes no overtime for the first year, no overtime for the second year, 44 hours the third year, 42 hours the fourth year, and 40 hours the fifth year. If ever a compromise was reached, this is it.

The two bills before the conference were in substantial agreement as regards the level of the minimum wage rate.

For the 23.9 million workers currently covered, both bills provided an increase to \$1.15 an hour 4 months after the date of enactment and a further increase to \$1.25, 2 years later. These provisions were adopted by the conferees.

Adoption of these provisions will greatly improve the effectiveness of the act. Substandard wages lead to substandard living conditions, hardship and distress. Since 1956, when the minimum wage was increased to \$1, both living costs and productivity have increased to such an extent that a rate of \$1.25 merely reflects an adjustment to keep pace with these factors.

When the minimum wage is increased to \$1.15, 1.9 million low-paid workers will receive wage increases. These increases will total \$336 million on an annual basis. Not only will the level of living of the families of low-paid workers be greatly improved, but their increased purchasing power will stimulate the economy and be of benefit to business and the country generally.

Employers will be allowed 1 year and 4 months from the date of enactment to complete their adjustment to the moderate rate of \$1.15. Only after 2 years and 4 months have elapsed will the minimum rate be advanced to \$1.25—an objective which can be readily justified at this time. Only caution prompts delay.

For newly covered workers both bills provided a rate of \$1 an hour beginning 4 months after the effective date. However, the two bills differed in that only one provided for subsequent increases in the rate—after 1 year, the rate would have come to \$1.05, after 2 years to \$1.15, and after 3 years to \$1.25.

The bill approved by the Labor Committee contained escalator provisions for newly covered workers. Although these provisions were not incorporated in the bill which finally passed this body, I do not recall that anyone objected to them on grounds of social undesirability.

I believe that we are all in agreement with the words of the President when he stated that our Nation can ill afford to tolerate the growth of an underprivileged and underpaid class. We can no more afford it in retail trade than we can in manufacturing.

Workers in large retail enterprises and others who would be newly covered have to pay the same prices for goods as workers who are now covered by the act. Both groups of workers have families to support. Both are desirous of raising the standards for their families. The bill would provide equal treatment for the two groups of workers.

Objections to escalator provisions for newly covered workers were made on grounds of economic feasibility. What we have done is to stretch out the step-up provisions over a longer period of time. This will eliminate any possibility that the impact of the new provisions would be so great as to hurt the very people we are trying to help.

In revising the escalator provisions, we have considered not only the problem of adjusting to an initial minimum wage and to increases in the minimum wage but also the problem of adjusting to overtime standards.

The bill which the conferees agreed to sets a minimum wage of \$1 to become effective 4 months after the date of enactment. This rate is maintained for a period of 3 years. During the first 2 of those years no premium payments for overtime are required. Only at the beginning of the third year after the effective date does an overtime standard become the law, and the requirement is only that time and one-half the regular rate of pay be paid for hours over 44 in a week.

While the overtime standard is being adapted to, the minimum rate of \$1 remains in effect. Only after the large enterprises in the country have operated for 3 years under a \$1 minimum rate and for 1 year under a 44-hour workweek standard does the rate increase to \$1.15 per hour and the overtime standard drop by 2 hours to 42. In other words, only during the fourth year after the effective date do we reach \$1.15 an hour and the 42-hour workweek.

At the end of the fourth year the newly covered workers are finally raised so that these workers and the workers now covered by the Fair Labor Standards Act are on a par. The minimum wage applicable to both groups becomes \$1.25 and their standard workweek becomes 40 hours.

I have spelled out the escalator provisions for newly covered workers in considerable detail to indicate to you how modest they really are. I want to emphasize that in arriving at a conference report we were extremely cautious about achieving our aims.

For example, although the newly covered workers will number 3.6 million, the establishment of a \$1 minimum rate will mean pay raises only for 663,000 of them.

By the beginning of the fourth year, when the minimum is advanced to \$1.15, many of the 1 million workers who are now paid less than that amount, will have been raised to \$1.15 or more as a result of labor market forces. Similarly, by the beginning of the fifth year, many of the 1.3 million workers who are now paid less than that amount will have been raised to \$1.25 or more.

By allowing over 4 years for employers to adjust to the \$1.25 rate, we insure that the newly covered workers will receive the same benefits as currently covered workers, without loss of jobs or undue burden on business.

The House bill set a rate for presently covered employees of \$1.15; while the Senate bill set a rate of \$1.15 for 2 years, and then escalated the rate up to \$1.25.

The conferees, in increasing the rate up to the latter figure after 28 months, were only taking into account the increased productivity of American workers, and the increased costs of living.

Between March 1956 and December 1960, the Consumer Price Index rose by 11 percent; while real output per man-hour increased by 13 percent.

Based upon Labor Department figures, a modest level of living requires an an-

nual budget of in excess of \$5,000. It varies from \$5,370 in Houston to \$6,567 in Chicago. Even a rate of \$1.25 would cover less than half of such budgets.

In 1955, to adjust to the \$1 rate, the wages of those paid less than such rate would have increased manufacturing costs 8 percent. In 1961, to raise the rate of those covered to \$1.15 would be only half that amount, or 4 percent.

President Roosevelt, 23 years ago, said in asking the Congress to pass a labor standards act, that the frontiers of social justice should be extended.

President Kennedy, in 1961, stated in requesting additional protection and increased rates:

When we permit the growth of a depressed class, whose members cannot afford the bare necessities of life, we pay a heavy price. We undermine the general prosperity of the Nation which rests upon consumer purchasing power. We promote the spread of slums, of crime, of disease, of all the ills that grow from hopeless poverty.

The moderate nature of the conference bill is seen from the fact that of the 3.6 million newly covered employees, only 663,000 are paid less than \$1 per hour, compared with 753,000 under the Albert bill; and 728,000 under the Senate-passed bill. On the 1.8 million retail establishments, only 65,000 would be covered—a relatively small number.

With respect to overtime, only 460,000 are presently employed over 44 hours. This, I emphasize, is the figure in 1961, not in 1963 when the first overtime requirement would be effective.

I would also point out, that the bill requires various studies by the Secretary of Labor, with reports on imports being made to the Congress, which will enable us to keep fully abreast of economic developments. Additionally, there is the 4(d) annual report, dealing with the impact and operation of the statute.

Finally, the conference bill has sought, in fairness and equity, to take into consideration, some specific problems in the newly covered fields. In retail service, the tolerance for managerial employees has been increased to 40 percent for nonexempt work. Commission employees, where more than half of their income is from commissions on goods or services and amounts to 1½ times the minimum rate, are also not subject to any overtime requirements. The continued hiring of student workers also would be permitted, at rates less than the minimum.

Exemptions also have been provided for: employees engaged in cotton ginning, country elevators, making holly wreaths, in processing shade-growing tobacco, in transporting fruits and vegetables to market. From 16,000 to 25,000 employees would be affected by these exemption provisions.

Following is a complete and final report on the conference committee's version of a compromise bill.

Summary of minimum wage bill (H.R. 3935) as agreed to in conference

	Number of employees		Number of employees
A. For presently covered employees (23,900,000), the minimum wage is increased to \$1.15 an hour for the 1st 2 years after the effective date and \$1.25 an hour beginning 2 years after the effective date.		C. Retail trade—Continued	
B. For newly covered employees the minimum wage and overtime will be as follows:		3. Exemption from retail coverage, etc.—Continued	
		(j) Any small store which has less than \$250,000 in annual sales even if it is in an enterprise that has more than \$1,000,000 in annual sales.	
		4. Special provisions for retail trade: In addition, the bill makes the following special provisions for particular problems in the retail and service trades:	
		(a) Commission employees in retail stores will be exempt from overtime if more than half their pay is from commissions and if they earn at least time and one-half the minimum rate.	
		(b) Assistant managers of retail stores will be exempt even if they perform up to 40 percent nonexecutive and nonadministrative work.	
		(c) Student workers may be employed in retail trades at subminimum rates under certificates issued by the Secretary in occupations not ordinarily given to full-time employees.	
		D. Laundries: The conference agreement has removed the proposed new coverage and the changes in exemptions for laundries that were contained in the Senate-passed bill. Laundries therefore remain in the same position as they were under the present law.	
		E. Transit companies: Suburban and interurban transit companies which have \$1,000,000 or more in annual sales (exclusive of excise taxes at the retail level) are covered for minimum wage but not for overtime.	93,000
		F. Establishments which already have some covered employees under the act are covered for all their employees if they are in an enterprise which has a million dollars or more in annual sales.	100,000
		G. Construction: Construction enterprises which have at least \$350,000 in annual business are also covered for minimum wage and overtime.	1,000,000
		H. Seamen: Seamen on American-flag vessels are covered for minimum wage but not for overtime.	100,000
		I. Telephone operators: The exemption for telephone operators is limited to those employed by an independently owned public telephone company which has not more than 750 telephones.	30,000
		J. Fish processing: Seafood processing employees are covered for minimum wage but not for overtime (seafood canners are treated in this way under the present law).	33,000
		Total number of newly covered employees	3,624,000

	Number of employees
C. Retail trade:	
1. Retail and service enterprises: The bill covers retail enterprises which have a million dollars or more in annual sales (exclusive of excise taxes at the retail level) and which purchase or receive goods for resale that move or have moved across State lines which amount in total annual dollar volume to \$250,000 or more.	2,182,000
2. Gasoline service stations: Also covered for minimum wage, but not for overtime, are gasoline service stations which have \$250,000 or more in annual sales (exclusive of excise taxes at the retail level).	86,000
3. Exemption from retail coverage: From this coverage in the retail trade the bill excludes the following:	
(a) Auto dealers and farm implement dealers.	
(b) Hotels.	
(c) Motels.	
(d) Restaurants, including retail store lunch counters, caterers, and similar retail food services.	
(e) Motion picture theaters.	
(f) Hospitals.	
(g) Nursing homes.	
(h) Schools for handicapped or gifted children.	
(i) Amusement or recreational establishments operating on a seasonal basis.	

K. Other provisions:

1. Puerto Rico: The minimum wage in Puerto Rico for presently covered employees is increased by the same percentage as the mainland minimum, subject to review by industry committees in hardship cases; for newly covered employees the rates will be set by industry committee procedures.

2. Broadcasters: Announcers, news editors, and chief engineers of broadcasting companies located in nonmetropolitan cities of 100,000 or less population are exempt from overtime.

3. Bulk petroleum dealers: Independently owned and controlled local enterprises engaged in bulk petroleum distribution are exempt from overtime if their annual sales are less than \$1 million (exclusive of excise taxes).

4. Trip rate: Trip rate drivers and drivers' helpers making local deliveries are exempt from overtime if the Secretary of Labor finds that the plan under which they are paid is consistent with the principle of the 40-hour workweek.

5. Farmer's livestock auction operations: Employees working in a livestock auction held by a farmer need be paid the minimum rate only for the hours they work at the auction if during that workweek they are employed primarily in agriculture by the farmer.

6. Country elevators: Employees in country elevator establishments in the area of production, which may also sell products and services used in the operation of a farm, are exempt from both minimum wage and overtime if no more than five employees are employed by the establishment in such operations.

7. Cotton ginning: Employees engaged in ginning cotton for market in counties where cotton is grown in commercial quantities are exempt from minimum wage and overtime.

8. Holly wreaths: Homeworkers making natural holly wreaths are exempt from the act.

9. Shade-grown tobacco: An exemption from minimum wage and overtime is provided for agricultural employees engaged in bulking shade-grown tobacco if they were employed in the growing and harvesting of such tobacco.

10. Transporting fruits and vegetables to market: An exemption from minimum wage and overtime is provided for employees transporting fruits and vegetables from the farm to market or transporting harvesting hands, within the State.

11. Board and lodging may be included as wages on the basis of a fair value calculation made by the Secretary. Also, such perquisites may be excluded for wages to the extent that they are excluded under a collective bargaining agreement.

12. Study of employment effects of foreign trade: The Secretary is authorized to study employment effects of imports and exports in industries covered by the act and to report on such studies to the President and to the Congress.

13. Study of certain exemptions for canning and processing and of wage rates in hotels and restaurants: The Secretary will study the complicated system of exemptions in the act for the handling and processing of agricultural products as well as the rates of pay in hotels, motels, restaurants and other food service enterprises and to report the results with recommendations to the next session of this Congress.

14. Effective date: 120 days after enactment.

Mr. KEARNS. Mr. Speaker, I yield 8 minutes to the gentleman from New York [Mr. GOODELL].

(Mr. GOODELL asked and was given permission to revise and extend his remarks.)

Mr. GOODELL. Mr. Speaker, I have listened very carefully to the prior speakers, and I talked to all of the people that came out of conference. I was

a little bit unhappy to hear the reference to attendance at the conference, and I want to pay particular tribute at the outset to our subcommittee ranking member, the gentleman from Ohio [Mr. AYRES] who is here today filled with penicillin and should not be out of bed. He has been sick for the last 2 days. He would have offered the substitute in conference had he been able to be there.

Now, there has been reference to standing by the House and how much time was spent in conference on these issues that are so critical with reference to the differences between the House and the Senate. We all know, and I think that the prior speaker admitted, that the chief issue between the House and the Senate is extension of coverage, and more particularly, dollar volume of sales as a basis for extending Federal jurisdiction. It has been reported to me that there was absolutely no discussion at all on this point in the conference; that it was voted upon immediately without any discussion. Now, there is the critical issue between the two Houses. And, I might say that I think this is one of the most cynical types of approaches that I have seen as a young Congressman since I came here. We are granting concessions here that almost have the names of individual Congressmen on them and we get down to holly wreaths as presently covered and to exempt them under this bill in order to pick up one or two votes here and there.

We have all talked about this to our constituents and here in the House on a partisan basis and a sincere basis. Let me talk for a moment on a completely

nonpartisan basis, because I think the issues that are at stake here rise far above partisanship, and the political consequences of your vote and mine back home will long be forgotten when the real consequences of this act come home to our people.

We were all worried about extension of coverage under the dollar volume sales formula. Obviously, the Senate was also worried about it because before they could pass the bill in the Senate they added a clause providing essentially that \$250,000 of merchandise in a retail store had to come across State lines before that retail store would be covered. Let me read you the key clause on this because this clause, which was added in the Senate presumably to meet the interstate test, is actually the worst thing in this respect that we have had in any of these bills; and I say that advisedly, after staying up several nights with the most expert lawyers who have worked for years in this fair labor standards field. They added a provision that if \$250,000 worth of goods for resale move or have moved across State lines; that store is covered.

We can discount the \$1 million, we can discount the \$250,000; they are not basic criteria for determining involvement in interstate commerce. We know those figures are going to be reduced. So what is the meaning of this clause? Let me tell you. Once a piece of merchandise moves across State lines it is forever tainted; you might as well paint it in phosphorescent paint that this is radioactive, it is dangerous; if you touch it you are subject to Federal control. That is what it means. And there is no time limit on it. If a piece of merchandise once crosses State lines, as long as that merchandise is in existence, anybody who touches it is subjecting himself to Federal control. There is the key to it. I wrote all of you a letter this morning which pointed out that if a rocking chair was carried across a State line during the War of 1812 and never crossed a State line since that time, this provision will make anybody who touches that rocking chair and works on it subject to Federal jurisdiction. Not only that the employees working with him in that enterprise are covered even though they never touch the rocking chair. That is the way this is written, and I quote: "moves or has moved across State lines."

This is not just my opinion. This is the opinion of experts on this subject who have told me that this is a radical, an incredibly great expansion of the present Federal law in this area as to the meaning of the clause "engaged in commerce."

We are completely discounting the present test that for anybody to be engaged in commerce he must work on goods that have had some direct relationship to the flow across State lines. This does not say that. It does not say that if you unload goods immediately after it comes across State lines you are covered. It says "move or have moved across State lines." Anybody who believes in limiting the Federal jurisdic-

tion had better watch out for that clause. That is a dangerous precedent.

Mr. KITCHIN. Mr. Speaker, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from North Carolina.

Mr. KITCHIN. I agree thoroughly with the gentleman's interpretation of this particular clause in order to gain some jurisdiction under the interstate commerce feature. I understood the gentleman to say there is absolutely no time limit whatsoever once goods have been transported across State lines. Is that correct?

Mr. GOODELL. That is correct.

Mr. KITCHIN. Have not the courts universally held with reference to when the interstate feature of goods and merchandise ceases is that in civil matters it is when they come to rest in the retail store; and in criminal matters under the criminal provisions of the Interstate Commerce Act, I will ask the gentleman if the courts have not held that the Federal Government loses jurisdiction once those goods that have been transported in interstate commerce come into the hands of the ultimate consumer or the ones who purchase those goods. We have the Federal jurisdiction delineated from State jurisdiction under those decisions that come into play to stop the taint of which the gentleman is speaking as far as the interstate commerce feature is concerned.

Mr. GOODELL. I agree with the statement of the gentleman from North Carolina, who is certainly thoroughly cognizant of the provisions of this bill and of this conference report. The Supreme Court has said with reference to the clause engaged in commerce that it reaches the farthest reaches of the channels of interstate commerce. It presently requires that those channels have some sort of relationship to the flow of merchandise across State lines. This bill for the first time is saying that it does not make any difference if it is part of this channel moving across State lines, or related to that flow at the time. Once it moves across State lines and comes to rest, even if it never moves again, anybody that works on it subjects himself to Federal jurisdiction. What are the restraints on such a power? I know this may be a little technical under the circumstances because it was thrown in in the Senate and we have not debated this point—I am sorry there is not more time—but I ask you gentlemen who think on these questions and who are worried about the Federal jurisdiction if that is the kind of provision you want to vote for.

Mr. KITCHIN. Then apparently the conferees were interested in maintaining an interstate commerce feature here under such guise as is included in this particular substitute. I will ask the gentleman to refer to subsection (2) under paragraph (s) of section 2 where it states:

Any such enterprise which is engaged in the business of operating a street, suburban or interurban electric railway.

May I ask him if there is any semblance of interstate commerce involved in that particular phrase.

Mr. GOODELL. Only in the paragraph above, which is very little, where it states that they must handle, sell, or otherwise work on goods that have been moved in interstate commerce, and I emphasize "have been moved" at any time.

Mr. KITCHIN. So if the bus or street railway or whatever they are operating moved at one time in interstate commerce, the car or one feature of the car or the gasoline or the electricity which runs it, under those circumstances they receive jurisdiction under this legislation.

Mr. GOODELL. Or the coinbox was made in another State. Once you wipe out this million-dollar feature and the new \$250,000 requirement, which everybody agrees can be reduced rapidly right down to nothing.

Mr. CLEM MILLER. Mr. Speaker, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from California.

Mr. CLEM MILLER. The gentleman last year in the debate on the Landrum-Griffin Act I do not notice showed a similar concern for interstate commerce. The standards of interstate commerce in the Landrum-Griffin bill are substantially the same.

Mr. GOODELL. I am sorry, the gentleman will have to get time on his own side to make his argument. That is not correct. Landrum-Griffin is completely different. This is a new clause as to the definition of the technical clause "engaged in commerce." If you will have one of your speakers come down here after I am finished and point out the clause in the Landrum-Griffin Act that is the same as this, then I will say you are right.

Mr. POWELL. Mr. Speaker, I yield 10 minutes to the gentleman from California [Mr. ROOSEVELT].

(Mr. ROOSEVELT asked and was given permission to revise and extend his remarks.)

Mr. ROOSEVELT. Mr. Speaker, I think the time has come, when instead of debating whether the House had good conferees or bad conferees, to talk a little about what actually and really was done in the conference. I think one of the most important things for Members of the House to realize in considering the report, is that the House conferees insisted on the inclusion of an amendment which was adopted by the House, which was proposed by the gentleman from Georgia [Mr. VINSON] for the exclusion of laundries from the bill for the very simple reasons that he recited in that debate. I can assure you that this was only accomplished after a great deal of stubborn debate within the conference, because the other body had already, by vote, approved the inclusion of laundry and drycleaning enterprises, and if anything held up the conclusion of the conference, it was this issue, and the inflexible stand taken by your House conferees. But, we went much further than that. We insisted also that automobile and farm dealers be excluded. We furthermore changed the language as to urban and interurban transit, insisting on an interstate

commerce requisite, including the million-dollar exclusion. We also went into the matter of broadcasters and we insisted and prevailed on the original idea of what the House of Representatives had in mind in that respect.

Then, of course, we came down to the measure adopted in the House which was known as the Herlong amendment. You will remember that amendment was made to the Kitchin-Ayres bill. Again the House Members insisted against bitter Senate opposition that the Herlong amendment be retained, and it was retained and is in the conference report today.

There were certain other things we added. We have been criticized for accepting some of the Senate amendments. One of them, however, was similar to the amendment proposed last year by the gentleman from Mississippi [Mr. SMITH]. As you may remember, there was some difficulty with it, but basically we agreed upon the principle and went along with the other body in accepting that amendment.

Mr. Speaker, I think it is also important to recognize that this whole business of interstate commerce which has been raised so strongly today, is a matter which came before this House and was decided by only one vote. After the deliberations were over—the Albert bill was defeated by one vote only. Then on final passage of the Kitchin-Ayres bill, there was adopted a concept of interstate commerce which I call the “5 and 2” test; namely, the retail enterprise has to do business in two States and have at least five or more retail establishments. My friends, may I ask you to consider, that in no other Federal statute is such an interpretation or concept of interstate commerce set forth. You can find it nowhere. There are no interpretations by any court of such a novel concept or untried interpretation of interstate commerce. So, on the Senate side, the Members of the other body, decided that the Albert bill, where we said 25 percent of the goods of any establishment must cross State lines, was not accepted, because it was not specific enough. So they made it specific in order to insure an interstate commerce foundation, and therefore puts in the requirement of \$250,000 of goods that must cross State lines. That has been ridiculed, somewhat because we have included the requirement that these goods must have crossed State lines—not particularly in the last transaction, but at some point must have crossed State lines.

Let me tell you why, and it is a very simple thing, I think, for all of us to understand. Suppose we had written that only the goods on sale on the counter had to come directly across State lines. You know what would have happened; do you not? Everybody would have taken the goods and put them out in a warehouse and then after the warehouse was loaded, they would have sold them to the individual retailer and he would have been exempt under the law. My friends, it is very obvious, therefore, that the Congress had to write into the law something to take care of that situation, and close that loophole. That is

exactly what the other body did, and which we felt, established a sound constitutional foundation, as it has been established in many labor relations statutes.

If they were going out of State they should not be counted twice. In other words they were being sold and then transported to the consumer within the State so they should not be counted twice in the \$250,000 figure. So we accepted that amendment to tighten it up, and to make sure that this concept of interstate commerce was sound and valid, and would be interpreted as such things have been interpreted in previous instances. In no case, has a “5 in 2” test been tested, because it has never been heretofore suggested.

Just so you understand that we are not talking in a vacuum, I would like to explain that what we have done is based upon very definite judicial decisions. NLRB jurisdiction in the case of *Meatcutters v. Fairlawn Meats* (353 U.S. 20), involving three retail meat markets, all of whose sales were intrastate, was upheld, although its annual out-of-State purchases, totaled slightly more than \$100,000 out of gross purchases of \$900,000.

I note that we require that \$250,000 in goods for resale, have come from out of state.

Again, in the case of *United States v. Sullivan*, (332 U.S. 689) a druggist was convicted of failure to comply with labeling requirements for a particular product, which was sold to customers, after having moved in commerce. Again, it was held that it was not necessary to have a history of the goods having crossed State lines at any particular time or during any time period, but that they have crossed State lines previously. That was held to be constitutional. So there is no question, I think, of anybody saying with any legal basis, that we have not followed strictly every possible legal protection and precedents, to set forth a good, sound interstate commerce foundation.

Mr. Speaker, I just want to say one other thing. It is sometimes said that if this conference report were not to be adopted we could then ask for another conference and instruct the conferees to stick by the House bill. I am sure that the Members, particularly the older Members of this House, know how difficult it is to go to any conference that prohibits a free conference. The minute you do that it is resented on the other side as we, I am sure, would resent it on this side. It is a practical impossibility, but it became, even a certainty, this very afternoon when this conference report was accepted in the other body by a vote of 64 to 28, better than 2 to 1, two-thirds having voted in favor of it. What can we expect to get if we instruct our conferees to go back after that vote? It would mean there would probably be no legislation in this session or the next, maybe not in the life of this Congress. I am sure you know this, in spite of what the minority leader has said.

So I appeal to all of you. This, Mr. Speaker, is a moderate bill. This has less coverage than the Albert amend-

ment, and this applies all the way down the line in every item. For instance, for the newly covered employees, the conference bill provides that they will not be moved from the dollar figure for 3 full years, until another Congress can come into being, have the benefit of section 4(d) reports from the Secretary, and take such action as may be appropriate.

The same is true in the overtime provisions. There is no overtime requirement, Mr. Speaker, no overtime required for 2 full years. In other words, all that we are doing here is binding this Congress. The next Congress can take action if those horrible things, which my friend on the other side tries to picture, occur. I say he has very little respect for the men and women who are going to be elected to the next Congress. I have a great deal of respect for them and in their judgment and good sense. Therefore, I appeal to each Member for the adoption of this conference report.

Mr. KEARNS. Mr. Speaker, I yield to the gentleman from Ohio, a cosponsor of the Ayres-Kitchin bill that we passed by 340 votes, the gentleman from Ohio [Mr. AYRES].

Mr. GOODELL. Mr. Speaker, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from New York.

Mr. GOODELL. Mr. Speaker, I would like to ask the gentleman from California the question I wanted to ask him while he was on the floor.

It appears to me, and this is a very key issue in this entire debate, the gentleman's remarks conceded that it makes no difference how long ago a piece of merchandise crossed a State line, that merchandise once it crosses the State line subjects the person handling it to Federal jurisdiction.

Mr. ROOSEVELT. In answer to the gentleman, may I say that the gentleman from North Carolina [Mr. KITCHIN], very clearly stated that the Federal courts upheld that once something is sold in retail then it is finished and done with. All we have protected here is to make sure it must come into its first retail store, and that is the proper thing for us to do. By the words of the gentleman from North Carolina [Mr. KITCHIN], after it is sold in retail it is no longer subject to being in interstate commerce.

Mr. GOODELL. I think that is a very adroit misstatement of what the gentleman from North Carolina said. But I would say that the gentleman has conceded if it goes across a State line it thereafter subjects the person working on it to Federal jurisdiction.

Mr. ROOSEVELT. I do not concede that at all.

Mr. AYRES. Mr. Speaker, I refuse to yield further.

Mr. Speaker, this is the second minimum wage conference I have been a member of. Last year we met under the chairmanship of the gentleman from Georgia [Mr. LANDRUM], who had worked very closely with the gentleman from North Carolina [Mr. KITCHIN], in the drafting of the bill that the House passed last year.

This year, under the leadership of the gentleman from California, the House passed almost the identical bill that it passed the year before, this year by a larger majority, 216 to 203.

In this conference it is true there were 21 times we had a unanimous vote. We did not argue about Eli Whitney's invention being given special consideration, we were not arguing about whether or not holly wreaths should be considered. In fact, there was only one amendment that there would have been real controversy on had I been there to offer my substitute, and that was the amendment that determined how the newly employed would be covered.

First, I would like to tell the membership that all of this talk about how many millions are going to be covered is not the real crux of the issue. We talk about 3 million going to be covered, or 4 million, under one bill, and a million and a half under another bill. But what we should be considering is how many people are going to get a raise. Under the conference report and the provisions in that bill, only 700,000 people are going to get an increase in wages up to the one dollar for newly covered, and the average increase is going to be only 6 cents per hour.

Under the bill that the House passed, there would be 400,000 people getting an increase of 6 cents an hour.

So do not be concerned about which bill covers so many millions. We are only arguing about 300,000 people who are going to get an average 6 cents an hour increase.

The issue is far more important than that. What is the formula by which we are going to determine how these people are to be brought under a Federal minimum wage law? The formula is that if you had a million-dollar gross before, even though it is within the confines of one State, the Federal Government is going to set the minimum wage. Why do we not go further under that concept in the bill—and I have the greatest respect for the gentleman from New York and the gentleman from California for their work in the field of civil rights. Both of them have been diligently engaged in the work of the NAACP.

A member of the committee, a member of the other body, raised the point that by their actions they were denying the lowest paid workers of this country, the Negroes in the laundry industry, the right to an increase.

This hurts me as much as deviating from the interstate commerce principle to hear these two gentlemen sacrifice principle for political expediency. And, when I heard them say that we must deny these people coverage at this time or we will not get the votes in the House, what a change that was from the speeches I heard these gentlemen make in the well of this House before. I remember well having favored the Powell amendment on principle, when apparently it was going to be defeated, and I recall just a few weeks ago when the gentleman from California stood in the well of this House fighting to cut the

appropriations for the Committee on Un-American Activities, knowing very well in advance he was going to be defeated. But, he did not deviate from principle. We deviated from principle in this concept, and believe you me, Mr. Speaker, if I thought the Federal Government had a right to reach out into intrastate operations, I would not be exempting people by seeing how many votes I could get. That is what we heard in the conference, when we heard it said, "We can't help these people now, because if we do, we won't have the votes in the House to adopt the conference report."

The issue is, vote down the conference report, and we will go back to conference and get a sensible minimum wage bill.

Mr. POWELL. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. PUCINSKI].

Mr. PUCINSKI. Mr. Speaker, I rise to speak to my good colleagues from Illinois. I hope they realize that a vote for this bill will help our State. We can say, with pride, that wages are high in our State. But we have to admit that substandard wages are still being paid in Illinois. These substandard wages are not only a blot on our State, they constitute unfair competition to the great majority of our employers who want to pay good wages, and this competition hurts, because it comes from larger stores and chains which compete directly with firms which pay the good wages. This bill will eliminate this unfair competition.

This bill will provide additional income for presently covered workers in Illinois, some 65,000 of whom are earning less than \$1.15, and between 30,000 and 40,000 newly covered workers who are earning less than \$1 an hour. Every one of these workers is in that economic class where every single additional penny he gets he is going to plow back into the economy of the State. Every additional penny these people get as a result of this new coverage and the increase in the minimum wage will be spent for groceries, shoes, dresses, shirts, household equipment, and for payments on a car, or on a modest home. This increased consumer purchasing power in the hands of these low-wage workers will bring them more effectively into the consumer stream of commerce, increase the demand for goods and services, stimulate our industry and reduce our unemployment.

The bill will be good for our State in another way. As I have pointed out before, we are getting in the State of Illinois, and have been for some time, some 2,000 people a week. These people are streaming into our State from States where wages are extremely low and unemployment is very high because these people have not been earning enough wages with which to purchase the goods produced in those States. These people, I say, are coming into our State looking for work and for a higher standard of living. This is creating grave problems for us in Illinois. It is adding to our unemployment and relief problems. How

long can the businessmen and taxpayers in Illinois continue to provide schools, housing, medicine, general relief, and all the other things that we have to provide for these human beings simply because they are being exploited where they come from. In Illinois somewhat less than 5 percent of the 1.7 million presently covered workers are earning less than \$1.15; in the South some 20 percent are earning less than \$1.15. In Illinois, as of March, the unemployment rate was 6.3 percent. It was 9.4 percent in Tennessee, 9.6 percent in Mississippi, 10.5 percent in Arkansas, 11.6 percent in Kentucky. If we pass this bill, wages will be raised in these States, and the increased purchasing power will reduce their unemployment.

I hope, when we come to vote, that my colleagues from Illinois will remember that a vote for this bill is a vote for the employers of Illinois, for the taxpayers of Illinois, for the low-wage earners of Illinois. These people are watching us as we vote. Let us go on record in favor of this minimum wage bill.

Mr. BYRNE of Pennsylvania. Mr. Speaker, it is hard for me to understand why anyone would oppose legislation providing for a minimum wage of only \$1.25 an hour and why one would deny the protection offered by this bill to the millions of underpaid American citizens who are not presently covered by existing minimum wage and hour laws.

Any industry or retail merchandising business which does a gross business of \$1 million a year certainly is affluent enough to afford a wage which, after all, will be only sufficient to provide the bare necessities of life.

These business organizations will have 2 years to adjust themselves to the wage scale proposed by this legislation, and to say that it will inflict an undue hardship upon them is ridiculous. On the other hand, to aver that American workers are to be denied a fair wage and to say that their exploitation must be permitted to continue in this day and age is contrary to all American concepts of fair play and, to put it mildly, is downright puritanic callousness and a complete disregard for the welfare of millions of families who cannot begin to exist decently on the small wages they are now receiving.

With regard to industrial establishments, there are many low wage areas in this country which are a drag upon the economy of the entire Nation. Through their substandard wage rates, they have lowered local standards of living and created conditions which permit unfair competition with those sections of the country that pay decent wages. They are a detriment to the economy and the well-being of the United States as a whole, and it is the obligation of Congress to correct this condition. It is particularly important to do it at this time in order to increase consumption power and thus provide a stimulus to the faltering economy we have inherited from the previous Republican administration. The depression is an additional reason for immediate action rather than for delay. The argument that the passage of this legislation will result in more un-

employment because it will induce these employers to lay off employees is a fallacious one. The people in business who pay these low wages are not the type who hire an excess of employees—rather, the opposite is true. Experience has shown that they always operate with a minimum of employees. They have long since reduced their employee requirements to an irreducible minimum. I don't believe we have anything to fear on that score. These employers should be compelled to get into step with the American standard of living and American standards with regard to conditions of employment. They are out of line with the times, and are profiting unduly at the expense not only of their own employees but at the expense of the entire Nation. I sincerely trust that this Congress will finally approve the legislation as sponsored by President Kennedy and the Democratic leadership.

Mr. JOELSON. Mr. Speaker, Department of Labor statistics reveal that 665,000 of the workers to whom coverage will be extended by the new law now earn less than \$1 an hour, and about 4½ million of the presently and newly covered workers earn less than \$1.25 an hour. I believe that these figures argue eloquently for the passage of the amended Fair Labor Standards Act.

We simply cannot regard as excessive a take-home pay of \$50 before deductions to an American man or woman for a 40-hour week in the 1960's.

The law as presently proposed is as close to President John F. Kennedy's recommendations as can be obtained, and I urge its enactment.

Mr. VANIK. Mr. Speaker, I am pleased to support the conference result on the minimum wage bill which is now before the House. The compromise proposal is certainly a tremendous improvement over the original legislation.

The extension of coverage will provide benefits to about 3,600,000 newly covered workers, almost 1,500,000 more than were included in the original proposal approved by this body. This will mean pay raises to \$1 an hour for 663,000 newly covered workers and \$1.15 an hour for almost 2 million of the almost 24 million workers already covered.

Affected retail workers will particularly rejoice in the passage of this legislation.

The entire Nation will benefit by the passage of this important legislation which seeks to establish a firm foundation for the Nation's wage structure.

More importantly, this legislation seeks to eliminate competition between the several States on the basis of low wage standards. As minimum wages are increased throughout our economy, incentives are reduced for plant migration to low-wage States. The several States should not be permitted to compete for industry on the basis of the available supply of cheap labor. That kind of competition is unfair and serves to lead the Nation to social and economic disorder.

This legislation will prove to be a giant step toward economic recovery and employment stability.

Mr. DORN. Mr. Speaker, this bill is dangerous, un-American legislation. It is contrary to the concepts of our great opportunity system; the system that made this Nation the wonder and envy of the world. This bill will place the iron hand of the Federal Government eventually over every little business in the United States. It is a blueprint for Fascist socialism, and Hitlerian domination of individual initiative.

At this moment, we are having more small business failures than in the history of this Nation. It will further harass and intimidate little businessmen already overburdened with rules, regulations, and redtape. It will promote unemployment, further inflation, and discord.

This bill is a Federal economic control bill with bureaucrats and minority pressure groups calling the tune. It will promote automation and do-it-yourself campaigns which will result in more unemployment, welfare expenditures, and a demand for more unemployment compensation. This conference report should be rejected entirely. It is a reflection on the individual, local and State government. It is an expression of no confidence in these time honored institutions. It is a naked, stark, blatant Federal bid for power and complete totalitarianism. It will make the workingman a slave of the state and pawn in the hands of the Secretary of Labor.

Mr. COAD. Mr. Speaker, today we are considering the conference report on the minimum wage bill. The raising and expanding of the minimum wage is vital to the expanding economy of the United States. The working people over the entire Nation are extremely interested in what we do here today.

But, Mr. Speaker, there is another vast area where we find the laborers of our Nation in need of relief. This, too, is basically a wage situation. It is the simple fact that the importation of Mexican farm laborers is taking from our farmworkers work which should rightly be theirs.

H.R. 2010, the bill to extend Public Law 78—the Mexican farm labor importation program—without change for an additional 2 years, has been reported out favorably by the House Agriculture Committee and will be brought before the full House shortly. I have introduced a bill, H.R. 6032, which would extend Public Law 78 for an additional 2 years, provided that amendments are adopted which would protect the interest of the U.S. farmworker. This bill is supported by the administration.

The views of the majority of the members of the House Agriculture Committee are contained in the report which accompanies H.R. 2010. In order that the Congress may be able to consider both sides of the question, I would like to present, today, my views concerning the extension of Public Law 78. I would also like to insert into the RECORD an editorial which appeared in today's New York Times. This editorial states, in part, the following:

The House Agriculture Committee has reported favorably on the Gathings bill and

the Rules Committee has cleared it for action by the House. It should be killed—unless it is amended along the lines of the Coad bill. Its death would be un lamented except by the large-scale growers. They have used it to obtain an endless supply of seasonal farmhands who work without complaint under conditions far below decent American standards.

The Mexican farm labor importation program, a wartime emergency measure which has been extended and expanded during peacetime, raises serious moral, economic, and social questions, as well as principles of public policy.

This is a program which depends for its existence on poverty and unemployment in the Republic of Mexico and has a tendency to increase poverty and unemployment at home. As it is presently operating, it has been denounced by religious leaders of all faiths, and has been criticized by responsible citizens from all walks of life. It has been declared detrimental to the interests of U.S. farmworkers by both the former Secretary of Labor, James P. Mitchell, a Republican, and the present Secretary of Labor, Arthur J. Goldberg, a Democrat. Its effect on the economic position of farmers who do not use foreign labor has been questioned by the leaders of national farm organizations. The present administration has announced its opposition to any extension of Public Law 78 unless the law is amended to protect U.S. farmworkers from unfair competition with Mexican labor.

Essentially, the Mexican farm labor program raises the following important question concerning public policy: Should the power and authority of Government be used in such a manner as to perpetuate a farm labor system rooted in underemployment, unemployment, and poverty both at home and abroad?

H.R. 2010, by providing for a carte blanche 2-year extension of Public Law 78, answers this question in the affirmative. This bill is based on the proposition that the Nation's largest industry—agriculture—is dependent on cheap labor for its survival, and that U.S. growers are incapable of solving their labor problems without help from the Federal Government. Growers who have benefited from this program through the years have come to believe that the Government owes them a labor force.

I deny the validity of this proposition. In good conscience, therefore, I must sharply dissent from the views of the House Agriculture Committee. I must also dissent for a very practical reason. In view of the growing opposition to any extension of Public Law 78, coupled with the firm position taken by the administration that the law should be extended only if substantially amended, the views of the committee will result in failure to extend the program at all. Some bracero-using growers already realize this. For example, the following is a quote from the annual report of the Imperial Valley Farmers Association, one of the largest contractors of Mexican nationals in the country:

From the best information we can get, the extension of Public Law 78 will be difficult and, if extended, will have amendments that

will make it more difficult and expensive to use. It is obvious that, the less we, farmers depend upon braceros, the better our situation will be.

It is my contention that it should be public policy to accomplish in agriculture what we have already accomplished in other sectors of our economy; namely, the restoration of respect and dignity, based upon good wages, good working conditions and steady employment to the men and women who labor for hire on American farms.

H.R. 2010, in my opinion, would work against the accomplishment of this goal. In considering the effect of this bill, my views are arranged as follows:

First. The effect of Public Law 78 in fostering a class system in American agriculture.

Second. The effect of Public Law 78 on U.S. farmworkers.

Third. The effect of Public Law 78 on the vast majority of farmers who do not use foreign labor, and the majority of farmers who do not use any hired labor at all.

Fourth. Answers to arguments advanced by the proponents of H.R. 2010.

Fifth. Alternative legislation to H.R. 2010—H.R. 6032.

Sixth. Conclusions.

EFFECT OF PUBLIC LAW 78 IN FOSTERING A CLASS SYSTEM IN AMERICAN AGRICULTURE

Witnesses representing bracero-using associations, sugar companies, processors and canneries testified before the Subcommittee on Equipment, Supplies, and Manpower that American workers will not perform stoop labor on American farms. A steady parade of these witnesses variously described this kind of work as arduous, disagreeable, unpleasant, nasty, and distasteful.

At the same time, they described the American workers who do accept this work as unreliable, physically incapable, alcoholics, and skid row derelicts. When these witnesses were asked whether higher wages and better working conditions might attract more reliable and qualified workers, the answer was generally "No," the contention being, apparently, that Americans are above performing these so-called distasteful agricultural jobs.

The implication of such testimony is that there are some jobs in American agriculture that are below the dignity of qualified American farmworkers. The further implication is that such work is not below the dignity of citizens of Mexico. Thus, according to this point of view, Mexican labor is needed to perform jobs that only the derelicts of American society will perform. Once the initial premise is accepted, it is easy to arrive at the ultimate conclusion: Since American growers should not have to depend on unreliable and physically incapable American derelicts to satisfy their labor needs, they must be provided with foreign labor.

It seems clear that these growers are arguing for a class system in American agriculture. Years ago the English economist, Ricardo, defined what he called the natural rate of wages, as being "that price which is necessary to enable the laborer, one with another,

to subsist and perpetuate their race without increase or diminution" and thereby be able to serve the owners or producers. This is the basis of the class system theory of the 19th century liberal economists, a theory which has been rejected by American economists and industrialists, as well as the molders of public policy. We have rejected the theory that labor exists solely to serve employers; that labor is a commodity to be bought at the lowest possible price; and that laborers compose a special race somewhat akin to the "workers" of the bee and ant families. What is more, we have succeeded more than any other nation in the history of the world in proving these theories false.

Yet, in American agriculture, we still have proponents of the Ricardo school of economics. These growers tell us that if American workers are not available at the prevailing wage—the modern substitute for Ricardo's natural rate of wages—we must recruit workers from the poor of foreign countries. The so-called prevailing wage is very often predetermined by employers who combine for the purpose of stabilizing wages with the knowledge that, if U.S. workers will not accept the wage offer, foreign labor will be made available. Presumably, these growers believe that there will always be a sufficient amount of poverty in the world to provide workers who are willing to perform jobs that higher class people will not accept. This theory is based, of course, on placing a very low economic and social value on those jobs associated with the harvest.

Is it true that these jobs are so disagreeable that qualified American workers will not accept them, regardless of the wages and working conditions offered? Frederick S. Van Dyke, a grower from Stockton, Calif., testifying on behalf of the National Advisory Council on Farm Labor, said the following:

There is dignity, gentlemen, in agriculture. For the moment it has shrunk under the onslaught of misguided legislation such as Public Law 78. But, given the chance, it can survive and it can flower. The dignity inherent in agriculture deserves to survive, no less than our free society itself deserves to survive.

The dignity Mr. Van Dyke speaks about will not survive if agriculture becomes permanently dependent on a special class of poverty-stricken and underprivileged people, regardless of whether they originate in the United States or Mexico. Each year, hundreds of thousands of migratory workers, underemployed, poorly paid, poorly educated, and trained only in agriculture, roam throughout the United States helping to reap the rich American harvest. To this we add approximately 400,000 underprivileged foreign workers because, according to the bracero-using growers, there are not enough migrants to perform agriculture's disagreeable jobs.

The fact is that foreign labor performs less than 20 percent of the seasonal work in agriculture. U.S. workers predominate in cotton and many other activities. Mexicans dominate only in situations where wages have been frozen or where growers have organized their re-

cruitment around the use of Mexicans. For example, tomatoes in California's San Joaquin and Sacramento Counties are harvested almost exclusively by Mexicans. Yet, tomatoes in Indiana, Ohio, Illinois, and most other States are picked by domestic labor.

The proponents of Public Law 78 dismiss the migratory labor problem as a social question, not the concern of American growers. They are quick to admit, however, that many American growers are dependent on migratory labor; that they could not get their crops harvested without the migrants. In effect, what these spokesmen are saying is that many American growers are dependent on a supply of socially and economically displaced people.

By the same token, these same grower spokesmen claim that thousands of growers would go out of business if the supply of Mexican braceros were cut off. The implication is that these growers are dependent on poverty and unemployment in Mexico, an economic situation which spawns hundreds of thousands of unemployed and/or low-paid workers who are willing to migrate to the United States to accept work on farms at substandard U.S. wages.

Such a system cannot continue unchecked indefinitely, and farsighted growers already realize this. Fred Bailey, testifying on behalf of the National Grange, described Public Law 78 as a crutch and advocated termination of the program as soon as possible.

The Grange does not believe—

Mr. Bailey said—

that continued extensions of Public Law 78 are in the best interests of a majority of American farmers. We doubt that it is in the long run best interests of even a minority. Too many of us in agriculture have leaned far too long on Public Law 78 as a crutch—as an excuse for failure to take positive steps which would make the program unnecessary.

Reuben Johnson, testifying on behalf of the Farmers Union, got to the heart of the class system problem when he said:

It is our deep conviction that farm labor problems should not be singled out for separate and different treatment from other labor relations issues. These are principles equally correct and just as the goal of parity farm income for farm operator families. We do not think that a large majority of farmers favor a future for our Nation's agriculture that is built on a mud sill of poverty.

Mr. Bailey and Mr. Johnson, representing two of the most respected farm organizations in the country, do not believe that American agriculture must be dependent on a class system to survive. These men, as well as Mr. Van Dyke, believe that American agriculture is capable of finding essential solutions to its labor problems. The reliance of agriculture on the underprivileged of the United States and foreign countries is to a certain extent an excuse for avoiding labor problems rather than a solution to them. Only one national farm organization identified itself with the philosophy of those farm organizations which represent bracero users, and that was the American Farm Bureau Federation. This

is an organization which makes eloquent pleas to Congress to get the Government out of agriculture in order that the law of supply and demand may be restored to the market place, but insists in the continuance of Public Law 78—a Government program which interferes with the normal workings of the labor market.

I can understand the support given this program by those farm associations which represent bracero users, but it is difficult to understand why the American Farm Bureau Federation, which purports to represent more than 1½ million farmers, testifies so strenuously in favor of a program which is of benefit to less than 2 percent of the growers in the United States.

The Farm Bureau often complains that agriculture is the victim of poor public relations. It seems to me that as long as growers advocate a class system in agriculture, as long as they advance the proposition that the State and Federal Governments owe them a supply of premium labor at cut-rate wages, they will continue to have a public relations problem.

American workers perform strenuous tasks in coal mines, steel mills, foundries, and in oil fields. They work on garbage trucks, in cesspools, under rivers as sand hogs, and in the boiler rooms of ships and factories. They perform heavy labor in industry and construction.

They would be available to perform the so-called arduous work in American agriculture—if the wages offered and other conditions of employment were right. American workmen are far less soft and far more capable than bracero-using growers, association managers, and the processing corporation representatives give them credit for—and they have a greater respect for the work of the harvest than those who describe such work as nasty, distasteful, unpleasant, fit only for the dregs of the American labor force and the unemployed citizens of foreign countries.

EFFECT OF PUBLIC LAW 78 ON AMERICAN FARMWORKERS

American farmworkers are the most underprivileged group in the Nation's labor force. According to the Department of Agriculture, underemployment of rural people is estimated as the equivalent of 1,400,000 fully unemployed workers. The average earnings of agricultural workers are barely over \$1,000 a year from all sources, farm and non-farm. Farmworkers are excluded from minimum wage, unemployment insurance, and most workmen's compensation legislation. In addition, they are excluded from legislation which protects the right of workers to organize into unions and bargain with their employers.

Each year, approximately 400,000 American farmworkers are forced to migrate in order to avoid either low wages or unemployment at home. While on the road, their lives are very often characterized by underemployment, low wages, poor housing, lack of education, lack of health and welfare services, and in some cases unsafe vehicles for transportation.

The effect of Public Law 78 on these already downtrodden American workers

is similar to the effect of a boot applied to the head of a person who, through no fault of his own, is already groveling in the dust.

The Reverend William E. Scholes, western field representative, division of home missions of the National Council of Churches, gave the following testimony before the Subcommittee on Equipment, Supplies, and Manpower:

Some time ago, our staff made an informal study of the needs of migrant workers. We always ask one question, which is important to us, and it is: "What can we best do to help?" We thought that the answer might come that: "You could encourage the school system to help our children with their studies," or something of this nature.

Instead, almost invariably high on the list of what we could do was to help them get some of the jobs back that the braceros had taken from them.

Assistant Secretary of Labor Holleman has stated:

It is not in the public interest for Government to interpose itself in the farm labor market to guarantee a labor supply to employers whose refusal to adjust wages, working conditions or personnel practices creates artificial labor shortages.

For 9 months in 1959, four consultants studied the effects of Public Law 78 on domestic farm workers at the request of former Secretary of Labor, James P. Mitchell. These men conducted their investigations not only in Washington, D.C., but in all the areas where Mexican nationals are employed. They conferred with farm employers, domestic migrants, braceros, Government officials, and others close to or directly concerned with the Mexican farm labor program.

The four men who reported to the Secretary of Labor on this matter were: Ex-Senator Edward J. Thye of Minnesota, one of the men who helped write Public Law 78; Rufus B. Von Kleinsmid, chancellor of the University of Southern California and ex-president of the University of Arizona; Glenn E. Garrett, executive director of the Good Neighbor Commission and chairman of the Texas Council on Migratory Labor; and Msgr. George G. Higgins, social action director of the National Catholic Welfare Conference.

These distinguished Americans, from varied backgrounds and varied points of view, arrived at the unanimous conclusion that the Mexican farm labor program was undermining the already deplorable economic condition of American farm workers.

Evidence accumulated by the Department of Labor supports the conclusion reached by the four consultants.

A. Supply and demand: The mass importation of Mexican nationals in some parts of the country has made the law of supply and demand inoperative. The fact that Mexican workers can be obtained at a prevailing wage below the level which American workers will accept, makes it unnecessary for bracero-using growers to raise prevailing wages or offer other recruitment incentives which might attract American labor.

Fred S. Van Dyke said the following in his testimony before the Gathings subcommittee:

The phrase "prevailing wage" for domestic workers is obviously meaningless when vir-

tually 100 percent of the canning tomatoes in San Joaquin County are picked by Mexican nationals. The phrase "reasonable efforts to recruit" is obviously meaningless when I can pick up my telephone and order a hundred braceros any day I feel like it. The phrase "adverse effect" is obviously meaningless when the wages for tomato picking have declined by a full 50 percent during the 10 years of the bracero program.

Max Miller, vice president of the Arkansas Farm Bureau Federation, testifying in favor of H.R. 2010, answered a question as to what wages he paid his braceros in the following manner:

We pay the Mexican—the wage on the Mexicans is 50 cents an hour. And we have to pay the other labor (Americans) the same wages.

Mr. Miller admits that growers in his State do not make any attempt to recruit American labor by raising wage rates. On the other hand, he complains that he has to pay the same rate of pay to American workers that he pays to Mexicans. Later in his testimony, he describes the Americans that are available at this rate of pay as old people, and a few children after school hours. Mr. Miller might be asked what kind of labor he expects to get for 50 cents an hour. What able-bodied man who has to support a family can afford to work for this rate of pay?

The significance of Mr. Miller's testimony, however, is that Arkansas growers do not have to make any adjustments in their labor recruitment practices in order to attract American labor. The importation of foreign labor in this case makes a mockery of the law of supply and demand.

B. Wages: A vast amount of evidence accumulated by the Department of Labor proves conclusively that the importation of Mexican labor has had a definite adverse effect on the wages offered to American labor. The following facts, which, at my request, were supplied to me by Assistant Secretary of Labor Holleman, are to the point:

1. Hourly wage rates, without room and board, reported by the U.S. Department of Agriculture rose about 16 percent from 1953 to 1959, but Labor Department surveys show that wages in most areas and activities employing Mexicans remained relatively stable. Fifty percent of the studies show no significant change in rate from earlier to later years within this period; 32 percent show an increase, and 18 percent show a decline. Declines would not be expected to occur in labor-shortage situations.

2. In 43 percent of the cotton-harvest wage surveys in Mexican-using areas compared within the 1953-59 period, wage rates remained stable, and in 32 percent declines were reported.

3. A study of 1960 trends shows that in 52 percent of the cotton-harvest wage surveys in important Mexican-using areas wage rates remained the same as in 1959, while 28 percent declined. Most Mexican nationals are employed in the cotton harvest.

4. In some sections of Arizona wage rates in the cotton harvest have remained virtually unchanged from 1953 to 1960, and in other areas of the State cotton wage rates have dropped 50 cents per hundredweight.

5. In Mississippi County, Ark., wage rates for cotton picking were virtually unchanged from 1953 to 1960, despite the fact that the USDA hourly rate for the State as whole rose 28 percent. (This area uses 11,000 Mexican braceros.)

6. Phillips County, Ark., had an hourly cotton chopping rate for domestic workers of 30 cents in June 1954. Although the average rate in June 1960 was 37 cents, rates as low as 30 cents were still being paid. Mexicans are paid contract rates of 50 cents. The USDA average hourly rate for Arkansas was 69 cents in July 1960.

7. In Texas and Arkansas widespread declines occurred between 1959 and 1960 in cotton harvest rates (pulling in Texas and picking in Arkansas). Typically, the decline was from \$1.75 to \$1.50 per hundredweight in pulling (Mexicans are paid the contract rate of \$1.55), and from \$3 to \$2.50 per hundredweight in picking. A notable exception resulting from Department of Labor action under earning policies, occurred in the lower Rio Grande Valley, where the picking rate rose from \$2.30 to \$2.50. But this followed a period of several years in which there had been no change in rate until 1959, when, also by virtue of Labor Department action, the rate rose from \$2.05 to \$2.30.

8. In the Imperial Valley of California, wage rates remained unchanged at 70 cents an hour between 1951 and 1959. Recently the average hourly rate has increased to 90 cents an hour. Nevertheless, this rate is about 35 cents below the average for the State as a whole. (The Imperial Valley is a bracero-dominated area.)

This is just some of the evidence accumulated by the Department of Labor. There is much more. For example, Department of Labor studies have shown that in many areas growers who hire foreign labor tend to pay lower wage rates to the Americans they hire than growers who hire American labor exclusively. Even more important, the Labor Department has found that Mexican braceros are employed at approximately 20,000 skilled, semiskilled, and year-round occupations.

At a time when American farmworkers are the victims of a high degree of underemployment and unemployment, the employment of foreign workers in these jobs is a disgrace. It is difficult to imagine, in an employment situation such as this, by what set of mental gymnastics bracero-using growers can justify the employment of foreign workers in skilled occupations.

It is true that Public Law 78, as it is presently written, does not specifically limit the employment of Mexican labor to unskilled occupations, but it is our contention that it was the intent of Congress to so limit their employment. The use of Mexicans for skilled work reduces the opportunities of domestic farm workers to advance from unskilled to higher paid skilled jobs and tends to lower the wage levels of domestic farmworkers employed in skilled occupations.

C. Employer recruitment efforts: In areas of severe labor shortage, as growers compete for the short labor supply, there would normally be a tendency for wages to rise, improvements to be made in other conditions of employment, and for labor practices to be adopted to make maximum use of the available workers. However, the availability of a vast potential labor supply south of the border has reduced competition for domestic workers in labor shortage areas and has caused many growers to make only token recruitment efforts.

Msgr. George G. Higgins, social action director of the National Catholic Wel-

fare Conference, and one of the four consultants who advised Secretary of Labor Mitchell on the administration of Public Law 78, testified before the Gathings subcommittee on this question:

I can cite testimony of a number of growers and representatives of growers associations in various parts of the country who are quite willing to admit that their organizations, growers associations, were not really trying in an organized manner to recruit domestics.

They said that, "We have become in effect, recruiting agencies for braceros. So long as the braceros are available in large numbers, there is no compulsion of us to get out and do the kind of recruiting that we would have to do in private industry or that we would have to do in agriculture in the absence of the bracero program."

I have already discussed the decline in wages in many bracero using areas. But, what about other recruitment incentives? For example, do bracero using growers offer American workers the same conditions of employment they offer Mexicans? Do bracero using growers attempt to attract American workers to their areas by providing the kind of housing they need to meet requirements of their families? Do bracero using growers plan their crop production in accordance with the labor available to do the work?

Unfortunately, the answer to each of these questions is for the most part, "no."

Growers are required to furnish transportation for Mexican nationals to and from reception centers. Mexican nationals are guaranteed the opportunity to work at least three-fourths of the work days in the contract period, which usually has a minimum of 6 weeks. If Mexican workers are offered employment for less than 64 hours in any 2-week period, they are entitled to subsistence during idle days at the employer's expense. Mexicans must be provided with free housing. They must be paid no less than the prevailing wage for similar work in the area and are guaranteed at least \$2 a day during a 48-hour learning period if paid by the piece rate method. Employers of Mexicans are required to pay insurance against occupational injuries and to pay for the workers' subsistence during days of illness or injury. The employers must also carry occupational health insurance for Mexican workers, but the cost of this item is paid by deduction from wages.

Very few employers provide all of these benefits to their domestic workers; some provide none. There could be no clearer indication that the availability of Mexican workers tends to curtail active competition for the domestic labor supply and to prevent the normal adjustments in wages and conditions of employment that would be expected to occur in free labor markets.

An even more shocking practice by bracero using growers is the adoption of production methods predicated on the displacement of their domestic employees by foreign workers. For example, there has been an increasing tendency to shift the packing and sorting of vegetables from packing sheds

to the fields, where the activity is performed either on mobile packing platforms or as an adjunct of hand harvesting. In such cases, the packing shed workers, who are usually domestics, often refuse to shift to the fields because fieldwork receives a lower wage and is frequently performed under unfavorable conditions. They are then replaced by Mexican nationals. Typical cases of this type occurred in California's Salinas area carrot harvest in 1959, and in the lettuce and celery harvests of Southern California during earlier years.

While I am not opposed to improvements in technology, I feel that changes in production methods which are predicated on the replacement of American workers by Mexican nationals cannot be justified under any circumstances. Such a change in production procedures could never have occurred under conditions of a competitive labor market unaffected by the use of foreign workers.

Secretary of Agriculture Freeman said recently:

The root of the trouble in agriculture is the same as in other parts of our economy: There are not enough jobs to go around. Unemployment is the basic cause of underemployment, the basic reason we have pockets of poverty in rural areas.

In summary, there can be no doubt that Public Law 78, as it is presently written, has a depressing effect on the wages, working conditions and employment opportunities of U.S. farmworkers. The poor of Mexico are being exploited in a manner which increases poverty at home.

EFFECT OF PUBLIC LAW 78 ON FARMERS WHO DO NOT USE FOREIGN LABOR

Representatives of organizations and associations whose members use Mexican labor testified before the Gathings subcommittee that the majority of their members are small farmers. From this testimony—testimony presented by witnesses who have a special interest in perpetuating the bracero program—the committee has concluded that Public Law 78 is of inestimable help to the small farmer; indeed, that many small farmers would be forced out of business if the program were terminated.

The bracero program may be of short-run help to those small growers who use Mexican labor. It is questionable, however, whether the program is beneficial in the long run to these growers. Considerable evidence has been accumulated which shows that the availability of Mexican labor causes overproduction and a resulting decline in the prices these small growers receive for their products. The large grower who is able to increase his acreage—usually at the expense of the small grower who has been forced out of business—is not affected by this decline in prices.

Furthermore, the bracero program is of no benefit whatsoever to the majority of family farmers who hire no labor at all—54 percent of all the farmers in the United States—or to those growers who hire domestic labor exclusively—over 40 percent of all the farmers in the United States. Less than 2 percent of all American farmers hire Mexican

labor. No doubt there are small growers among this 2 percent, but compared to the vast majority of growers who do not use foreign labor, they constitute a minuscule minority.

Furthermore, there is some doubt as to whether those small growers who do use Mexican labor are farmers in the real sense of the word. Mr. Van Dyke explained it this way:

Professional spokesmen for bracero using associations * * * have come before you (the Gathings subcommittee) and stated that the majority of their members are small growers who could not possibly survive without bracero labor.

Let us take, for example, associations of citrus growers, managers of which have testified before you in favor of the bracero system. The small citrus growers of southern California may be small, but they are not growers in any meaningful sense. They do not grow anything. They are a form of landlords. Instead of renting out apartments and office space for profit, they rent out orange and lemon trees. The tenant is the Sunkist Association.

And who does the labor for the Sunkist Association? On February 25, 1961, 1,880 of the 2,160 employees in the Ventura County lemon harvest were foreign contract workers; i.e., 87 percent. Since about 10 percent of the workers in any such harvest are foremen, checkers, truckdrivers—positions which cannot be legally filled in California by braceros—we may conclude that Mexican nationals do virtually all the actual picking of lemons on the small farms of southern California.

These are the small farmers who claim they need Public Law 78 * * * I say that it is time to call a halt to the phony farming that has emerged as an adjunct of the foreign contract labor system.

In many cases, the legal employers of Mexican nationals are labor contracting associations. It is the task of these associations to supply labor to their members whether they be growers or distributing and processing cooperatives or corporations. Often the grower does not even pay for the Mexican labor he is supplied with. For example, the following colloquy took place between Chairman Gathings and Fred G. Holmes, labor commissioner of the Great Western Sugar Co. and the Northern Ohio Sugar Co.

Mr. GATHINGS. That money (cost to import a bracero to Montana and back to Mexico) comes out of the pocket of the farmer, is that not right?

Mr. HOLMES. The sugar companies advance the money and make what we call a mechanization charge to the grower. If the grower fully utilizes the labor, uses mechanical means to reduce the amount of labor, he makes no payment to the company, the company bears the entire cost of labor.

Mr. GATHINGS. It does not come out of the pocket of the grower at all?

Mr. HOLMES. No, it does not in this particular case.

Another colloquy between Chairman Gathings and Robert H. Ford, of the National Pickle Growers Association, brought out the same fact:

Mr. GATHINGS. Are the expenses of these Mexicans that come up to Michigan reimbursed—do you have to pay that to each grower, does the grower have to pay that?

Mr. FORD. The actual farmer does not, no sir. The association does, the processors, and the association ultimately winds up bearing that expense.

The question arises as to whether the sugar companies and the processors of pickles must depend on the availability of Mexican labor. For all practical purposes, they are the real employers of braceros. Because of the business relationships involved, they are also, in effect, the employers of the farmers who grow the crops.

Spokesmen for several farm organizations have taken a dim view of this system. Reuben Johnson, of the Farmers Union—an organization of family farmers—asked the Gathings subcommittee to consider the effect of the Mexican national program on family operated farms:

We are concerned by the lack of information on the economic effect of large numbers of imported farmworkers on family operated farms. We, therefore, urge you to provide for further study of the Public Law 78 program on our traditional pattern of family operated farms.

The fact is that if a large grower or processing corporation is able to obtain an unlimited quantity of labor for low wages, the labor performed by a farm operator and the members of his family on a small family farm becomes of equally low value. Even more important, the availability of braceros very often causes overproduction and a resulting decline in the prices all farmers receive for their products. This fact has been brought to the attention of the House Agriculture Committee many times before, but, as yet, it has not struck home. For this reason, we believe that it is necessary to present in this speech specific illustrations of how the importation of unlimited quantities of Mexican labor adversely affects small family operated farms.

A. Lettuce: The spring lettuce crop is grown in Arizona and California, largely with foreign labor, and in North Carolina, South Carolina, and Georgia exclusively with domestic labor. Over the last 6 years, production in the Western States has risen while production in eastern areas dropped. There has been a clear downward drift in average price for both the eastern and western crop. The average price per hundredweight for eastern lettuce declined 35 percent to \$3.88 for 1959 and 1960; the corresponding price for western lettuce went down 15 percent to \$3.50. It appears that the availability of foreign labor has contributed to lower returns for eastern farmers by overexpanding production and by enabling western growers to take over some of the markets formerly available to small farmers in the East.

B. Strawberries: California growers have doubled their production of mid-spring strawberries for processing over the last decade, largely with the help of Mexican labor. U.S. production rose by about 20 percent and prices fell 18 percent. The five other States producing this crop in competition with California—Virginia, Kentucky, Tennessee, Arkansas, and Oklahoma—all of which use domestic labor for strawberries, have curtailed production sharply as prices fell.

C. Tomatoes: More than four-fifths of the California workers who harvest

tomatoes for processing are Mexican workers. U.S. production of this crop averaged 3.8 million tons in 1959 and 1960, about 3 percent higher than in 1950 and 1951. California's annual production rose 0.5 million tons over this period while annual output in other producing States, which rely mainly on domestic labor, went down by about 0.4 million tons. The U.S. average price to farmers dropped by about 12 percent.

The use of Mexican labor probably has a bearing on the disappearance of the family-scale farm and the concentration of production on the large farm. The census of agriculture of 1959 revealed that the number of large scale farms with value of products sold at \$10,000 or more increased more than one-third in the last 5 years from 583,000 to 794,000. Meanwhile, the number of medium and small-scale commercial farms declined by more than 40 percent.

It may be inevitable that the family farm type of operation must gradually disappear from the American scene. Perhaps, this is the price we must pay for progress. However, it does not seem fair that this should happen partly because the Government of the United States makes available to large-scale growers and processing corporations an unlimited supply of foreign labor at wage scales which undermine the value of the labor performed by family farm operators and the members of their families.

I believe that the family farm operator should be given a fighting chance to survive.

ANSWERS TO PRO PUBLIC LAW 78 ARGUMENTS

Witnesses testifying before the Gathings subcommittee have advanced a series of arguments for Public Law 78 which appear to range from the irrelevant to the ridiculous when analyzed. I shall examine them one at a time.

A. No labor available: Some witnesses claimed that without braceros their crops would rot in the fields. They claim that domestic labor is not available for seasonal agricultural work. This argument was partly answered in section I of this report. A few additional remarks, however, seem warranted.

Most of the witnesses who advanced this argument were the representatives of labor contracting associations, user organizations and processing cooperatives and corporations which have a special interest in perpetuating the bracero system. These witnesses claimed that they made all-out attempts to recruit domestic labor but failed. Harvey R. Adams, executive vice president of the Agricultural Council of Arkansas, but it this way:

I don't believe anybody can make any more effort to obtain the workers (domestic) than we have; we think we have done a tremendous job in soliciting them from out of State and any place we can find them.

Can Mr. Adams really be serious about his recruitment efforts when farmworkers in Arkansas are paid, according to Department of Labor surveys, between 35 and 50 cents an hour? The truth is that American farmworkers are understandably not available for such preposterous wage rates, and neither should they be. From any viewpoint

these wage rates are morally wrong and economically absurd. They belong to the unhappy depression days of 25 years ago, from which we have long and thankfully emerged—at least in most parts of these United States.

Where decent wages and working conditions are offered, American labor is available. It is available, for example, in the State of Washington, where wages are as high as \$1.25 an hour, where growers participate in an annual worker plan, and sometimes advance transportation costs to American migrants.

It is available in the State of Oregon where the State legislature has enacted legislation, improving conditions for American farmworkers. It is available in northern California, where American workers can earn as much as \$1.50 an hour on many tree crops. It is available in the State of Ohio, where an enlightened State and grower policy has resulted in an elimination of the foreign labor which once came into the State.

In other words, in those places where growers have made a sincere effort to recruit domestic workers, they have been successful. Where an unlimited supply of foreign labor is available, however, there is no economic pressure put on the grower to improve his recruitment activities.

B. Inability to pay: Some witnesses testified that because of decreasing farm income, growers cannot afford to raise wages. This argument is generally coupled with the complaint that growers have no control over the price they receive for their products.

The question arises as to what growers cannot afford to pay higher wages. There is no doubt that the family farmer who uses little or no labor is in serious economic trouble. No evidence has been presented, however, that indicates that those large growers and processing corporations and cooperatives, who are the chief beneficiaries of the bracero program, are fighting for survival. On the contrary, these enterprises seem to be doing quite well. It is highly possible that an increase in labor costs could be absorbed by most growers who use Mexican labor through mechanization, crop diversification, or some other means.

Even if labor costs could not be absorbed, it is highly doubtful that an increase in labor costs would result in a substantial increase in overall production costs in agriculture. In 1958 the total farm wage bill amounted to \$2.9 billion, while total farm production expenditures, including interest and rent, amounted to \$25.2 billion. Labor costs, therefore, represent only 11.5 percent of total farm production costs, or less than one-eighth, according to the U.S. Department of Agriculture. This means that farm labor wages could rise more than 8 percent before production costs are raised as much as 1 percent.

J. Blaine Quinn, master of the California Grange, in a speech before the 88th annual convention of the California Grange, said the following regarding the price growers receive for their products:

The threat to orderly production and harvesting of California's \$3 billion agricultural

output must not be ignored. We take the position that the present labor strife is an indirect result of greed on the part of large landholders who brazen their way with unlimited expansion of all farm products, with little heed to supply and demand. Naturally, they depress the market for all similar products and force the independent producer to seek the cheapest labor supply available in order to get enough out of their year's effort to keep aboveboard. This forces wages for farm labor down below those of any other scale in the American Nation.

Without the braceros, it is highly doubtful that the large landholders Mr. Quinn describes could brazen their way with unlimited expansion of all farm products. Mr. Quinn suggests that when the independent producers organize they will be able to calmly and rightly demand a fair return. When this happens, Mr. Quinn says, labor unrest will be reduced to a minimum.

Yet, even if all these factors did not exist, it would still be impossible to argue that American agriculture must, in the attempt to meet its economic problems, exploit farmworkers. Fred Bailey of the National Grange, testified as follows before the Subcommittee on Equipment, Supplies, and Manpower:

We shouldn't rely on the pleas of economic poverty in agriculture to justify a low rate. We have got to put the emphasis, in our opinion, on raising agricultural income to the point where it is attractive to American workers.

I heartily concur with Mr. Bailey and the Grange.

C. Consumer prices: Some Public Law 78 supporters contend that consumer prices will increase if the bracero program is terminated or reduced. The argument goes like this: A reduction in the amount of Mexican labor available to American growers will cause an increase in labor costs, thereby raising food costs.

In my opinion, this question has no bearing whatsoever on whether or not Public Law 78 should be reformed, extended, or terminated. As former Secretary of Labor Mitchell said:

In this country we do not choose to keep down our bills, including our food bills, at the cost of overworking and underpaying human beings. We choose to pay the price necessary to support an adequate wage.

I am in complete agreement with this statement, and I believe that the vast majority of farmers in the United States would also support Mr. Mitchell's views on this question. Spokesmen for consumer groups, testifying before the Gathings subcommittee, stated unanimously that consumers would be willing to pay the extra cost, if any, necessary to eliminate substandard labor conditions in American agriculture.

It is doubtful, however, that reform of Public Law 78 would have a significant effect on consumer prices. In 1959 farmers received 38 cents of every consumer dollar spent for food. Of the receipts, farmers paid 8.8 percent in wages. That is, 3.3 percent of consumers' food expenses went for farm labor. If the farm wage level should rise, even if farmers were able to pass the increase straight along, the consumer would scarcely feel its effect upon his budget.

If wage costs rose 25 percent, for example, retail prices would be pushed up less than 1 percent.

D. Effect on Mexico: The Mexican farm labor importation program is, in effect, a point 4 program to Mexico, the supporters of Public Law 78 have testified. The fact is that Public Law 78 is not a foreign aid program, but a program to supply American farmers with supplemental labor. It must be examined on this basis, and not on the basis of a point 4 program. While it is true that the money brought home by Mexican braceros is of help to the Mexican economy, it cannot be argued that this is a legitimate justification for a program which is undermining the economic position of American farmworkers.

As was stated in the minority report of the House Agriculture Committee last year:

One can hardly expect the American farmworker to shoulder the burden of providing foreign aid to Mexico. If Mexico is to be helped, let us do it through programs established for that purpose—and not by injuring a large segment of our population.

There are indications, however, that Public Law 78 could become a thorny economic issue in Mexico, itself. Mexican cotton producers have complained of U.S. cotton dumping on the world market. The following is a quote from an article, "Balance of Trade Problems," contained in the March 1960 issue of *Comercio Exterior de Mexico*, a monthly publication of Mexico's Banco Nacional de Comercio Exterior:

The situation (disequilibrium of the Mexican foreign trade) is further aggravated by certain cases of open disregard for the vital interests of the Mexican economy, exemplified by the U.S. cotton dumping on the international markets. In spite of being such an important outlet for U.S. producers, Mexico does not receive fair treatment from her northern neighbor.

We are certain that Mexican cotton producers are not unaware that much of the U.S. surplus cotton which is dumped on the international market is produced with the help of Mexican braceros.

E. Antiwetback measure: Proponents of Public Law 78 have claimed that the bracero program is an antiwetback measure. If the program were terminated or reduced, these growers claim, the invasion of illegal entrants from Mexico—the so-called wetback invasion—would begin all over again.

It must be stated that this is more of a threat than an argument. The growers are telling the U.S. Government that if it reduces the amount of braceros available for work on U.S. farms, they will hire Mexicans who enter the country illegally. Turning logic upside down, they say that the best way to cure the wetback problem is to legalize the wetbacks.

I believe that the Immigration and Naturalization Service is adequate to the task of policing the Mexican border. I believe, further, that if growers, or any other employers, presume to break our Nation's immigration laws by harboring and trafficking in wetbacks, they should be punished for their actions. The Wet-

back Control Act of 1952 provides adequate penalties for this purpose.

F. Religious testimony: Proponents of Public Law 78 rejected the testimony of many National religious leaders who testified on the evils of the bracero program, but accepted with a great deal of relish, the testimony of one priest and one minister who testified on behalf of Public Law 78.

Msgr. Daniel Keenan, of Coalinga, Calif., testified that—

We just don't have the type and the quality and the stamina people who will go out and do that work.

Monsignor Keenan said that good money could be made in agriculture and that the working conditions were not bad. He put it this way:

If they [the domestic workers] will adjust themselves to the situation, if they will work 12 and 14 hours a day and forget time and one-half and holidays and so forth, and make hay while the sun shines, they can make a good living, if they want it.

The monsignor added:

If we could get a curtailment of some of these fringe benefits (unemployment insurance, etc.) that keep people from working we might have a group in here who would and could work and could make a fairly good living, if they wanted to.

While every other religious leader, including the minister who testified on behalf of Public Law 78, advocates the extension of labor standards legislation, income insurance legislation, and other decent standards to agricultural workers, Monsignor Keenan seems to be advocating the abolishment of these benefits, in order to force workers to accept seasonal agricultural employment—to make hay while the sun shines. By so doing, he emphasizes one of the main reasons why it is difficult to recruit American workers for seasonal work in agriculture. These benefits represent hard-won victories for the working men and women of the United States, and they will not give them up without an equally hard fight.

The Reverend Loyal H. Vickers, executive director of the Riverside-San Bernardino Counties, Calif., Council of Churches, testified that the program is working well in his area. He stated that there were not enough domestic workers available who were willing to accept the hard, unpleasant, less desirable work of the harvest. The Reverend Vickers, with the cooperation of the churches and church organizations in Riverside and San Bernardino Counties, attempted to recruit workers for the citrus harvest in that area. For the most part this effort was a failure. Most of the workers were either incapable of doing the work, or just plain unreliable. From this evidence, the Reverend Vickers concluded that Mexican braceros are necessary to Riverside and San Bernardino county growers.

In answer to a question concerning the Reverend Vicker's testimony, Rev. William E. Scholes had this to say:

I think most of us realize that agricultural labor is semiskilled labor. If one is to make a good living at picking, he has to know how to do it. Also he has to become accustomed to it. You cannot pick people

off the street and that quickly make agricultural workers out of them.

The Reverend Vickers, himself recognized this. In his testimony before the Gathings subcommittee, he made the following recommendation:

That the growers with the help of the Federal Government instigate a program of training and upgrading of farm labor, and that a way should be found * * * to make sure our farmworkers would be able to live respectable lives on an adequate income, adequate to support and educate their families.

I agree with the Reverend Vickers. It may be that until this is done there will be a need for braceros in the San Bernardino-Riverside area. However, I believe that one way to enact the recommendation made by the Reverend Vickers would be to reform Public Law 78 in a way that would protect American farmworkers from unfair competition with Mexican labor.

ALTERNATIVE LEGISLATION

There is an alternative to H.R. 2010. It is a moderate proposal which corrects the weaknesses of Public Law 78, while providing an opportunity for the users of braceros to make adjustments so that the Mexican farm labor importation program may be eventually eliminated. This measure is H.R. 6032.

H.R. 6032 has the backing of the administration, as well as the support of the following organizations: The National Council of Churches of Christ in the U.S.A., the National Catholic Welfare Conference, the Unitarian Fellowship for Social Justice, the National Catholic Rural Life Conference, the Board of National Missions of the Evangelical and Reformed Church, the Bishops' Committee on Migratory Labor, the Young Christian Workers, the Bishops' Committee for the Spanish Speaking, the American Friends Service Committee, the National Consumers League, the AFL-CIO, the American GI Forum, the Joint United States-Mexico Trade Union Committee, Amalgamated Meatcutters and Butcher Workers, AFL-CIO, the United Packinghouse Workers, the Agricultural Workers Organizing Committee, AFL-CIO, the National Advisory Committee on Farm Labor, the National Sharecroppers Fund, the National Education Association, the National Council on Agricultural Life and Labor, and the National Child Labor Committee.

Basically, H.R. 6032 would provide the following:

First. Eligibility to employ Mexican workers should be conditioned upon the employers attempting to recruit U.S. workers by offering them wages at least equivalent to average farm wages in the State. Employers would in no case be required to raise their wage offers by more than 10 cents per hour in any one year or to raise their wage offers to more than the average farm wage for the Nation as a whole—97.6 per hour in 1960. Where the wage offer thus determined is less than the wage already prevailing, the prevailing wage must, of course, be offered and paid.

Second. Eligibility to employ Mexican workers should be restricted to employers who make reasonable efforts to attract

domestic workers by offering—and actually providing—terms and conditions of employment reasonably comparable to those offered to foreign workers.

Third. Mexican workers should be confined to employment in seasonal and temporary jobs—less than year-round—and to employment not involving the operation of or work on machinery, except in specific cases where found necessary by the Secretary of Labor to avoid hardship.

Fourth. The Secretary of Labor should be authorized to limit the number of foreign workers who may be employed by any employer to the extent necessary to assure active competition among farmers for the services of U.S. farmworkers.

Fifth. If amended in the respect proposed above, the law should be extended for 2 years, terminating December 31, 1963.

Needless to say, these changes would greatly improve the protection of the American farmworker against the cheap labor competition of unlimited importation of Mexican braceros. By clarifying the law, it would enable the Labor Department to administer Public Law 78 in a manner which is fair to all the parties involved. Finally, it would constitute a significant step toward the elimination of the class system, based on poverty at home and in Mexico, which now exist in American agriculture.

CONCLUSIONS

The time for study is past. In the view of the Department of Labor and in view of the administration the extension of Public Law 78 is acceptable and desirable, but only if it can be properly revised.

These were the words used by Assistant Secretary of Labor Jerry Holleman in presenting the administration's position on Public Law 78 to the Gathings subcommittee.

The leaders of some of the Nation's leading church groups have given similar testimony. Rev. Victor C. Obenhaus, testifying on behalf of the National Council of Churches of Christ in the U.S.A., testified, in part, as follows:

The program (Public Law 78), we believe, is having serious and lasting effects on the American agricultural labor market. It thus contributes to one of the bleakest and most persistent pockets of poverty in our generally affluent society.

Rev. James L. Vizzard, S.J., director of the Washington office of the National Catholic Rural Life Conference:

Such legislation (Public Law 78) takes dishonorable advantage of the desperate poverty of workmen of other nations and creates labor pools of foreign fieldworkers who are denied the opportunity of normal immigration as permanent residents.

Mrs. Paul Blanshard, executive director, Unitarian Fellowship for Social Justice:

The growers in the United States are doing precisely now what was done in the early part of this century by the sweatshop operators and owners in the great cities of our country.

Finally, the Reverend Shirley E. Greene, town and country church secretary, Board of National Missions, Evangelical and Reformed Church:

Believing that we must safeguard the welfare of the American agricultural worker, we favor the early termination of the Mexican farm labor program.

Clearly, the moral implications of Public Law 78 are extremely important. Can we sacrifice our convictions in order to satisfy the wants of a small minority of farm employers? I believe that Congress must answer this question with a resounding, "No."

I do not suggest that Public Law 78 should be terminated immediately. I recognize that those farm employers who have become dependent on labor from Mexico need time to adjust to a free farm labor economy.

I do suggest, however, that Public Law 78 should not be extended unless the law is amended to provide the minimum safeguards contained in H.R. 6032. I suggest, also, that in view of the position taken by the administration, Public Law 78 will not be extended unless reform measures are adopted.

Mr. POWELL. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I rise to bring the facts before my colleagues. In the first place, the distinguished minority leader, the gentleman from Indiana [Mr. HALLECK], has told us that we should not compromise, and yet here on the floor in front of all of us just a few minutes ago he said he was in favor of a \$1.25 minimum wage. When he voted for the so-called Kitchin-Ayres bill he voted for \$1.15. I am very happy that he is now in favor of \$1.25, and I am happy to welcome him to our ranks.

Next, I would like to bring the truth before this body. I say again that the proponents of the bill that passed this body in the conference did not make a single fight for their bill. I deeply regret that the gentleman from Ohio took sick, but he was at two of the meetings, and I hold in my hand the original notes. I was elected chairman of the conference, and in the very beginning there was an opportunity to offer the formula of five or more stores in two or more States. That formula was never offered, and the majority of us therefore voted in favor of the dollar volume formula.

Mr. AYRES. Mr. Speaker, will the gentleman yield?

Mr. POWELL. I yield to the gentleman from Ohio.

Mr. AYRES. The vote was 3 to 2. And, the reason the point was not made, the gentleman from New York knows that I planned to offer the substitute. And it has been my experience that whenever you are looking at a stacked deck there is no use putting your money on the table.

Mr. POWELL. I thank the gentleman for agreeing with me that he did not offer a fight. Now, Mr. Speaker, let us proceed. In the next place—and I hold the original notes in my hand—all of the conferees from the House, including the distinguished gentleman from Ohio [Mr. AYRES] who talks about principle now, and the gentleman from Pennsylvania [Mr. KEARNS] who called

the conference a sham, voted 21 times unanimously to recede. These are the penciled notes that I have here. Is or is not that true? I thank you for agreeing with me. Now I would like to proceed a little further.

Mr. AYRES. Mr. Speaker, will the gentleman yield?

Mr. POWELL. I am sorry, no. Let us talk about holly wreaths. The amendment on holly wreaths was introduced in the other body as a Republican amendment.

I must raise my voice at this juncture to make another point and that is as to the constitutional provisions. The NLRB right now says that you are engaged in interstate commerce if you are in excess of \$500,000 per year. In this bill we say you are engaged in interstate commerce only when all three of the following take effect: First, an annual gross of \$1 million, not \$500,000; second, \$250,000 of the goods are shipped across State lines; and, third, when the employees are engaged in handling goods in interstate commerce. All of these three conditions must be met in order to qualify for interstate commerce. The present rule of the NLRB is that only one of those must be met. This is in truth, therefore, a very stringent definition.

Mr. Speaker, finally I would like to say that we must vote today either for or against this conference report with the full knowledge that if we do not accept it now, today, there may not be another chance in this session of Congress to vote on minimum wage. The other body has just passed this conference report by a vote of 64 to 28. The other body has discharged its conferees. We, the conferees, know the sentiments of the other body. We know they will not accept any further whittling down of their position. This is the plain stark truth and fact that we must face. The moment of truth has arrived. We vote now and if we do not vote correctly now then we may not have another chance for the balance of this session.

Finally, I defy anyone to contradict this last point. There is not a single piece of Federal legislation upon the statute books of this Nation that imposes the concept of interstate commerce as proposed by the gentleman from Ohio [Mr. AYRES] and by the distinguished gentleman from North Carolina [Mr. KITCHIN].

Therefore I say the time has come to go on record for or against minimum wage and I urge you with all my heart, soul, and mind, to accept this conference report.

The SPEAKER. The time of the gentleman from New York [Mr. POWELL] has expired. All time has expired. The question is on the conference report.

Mr. POWELL. Mr. Speaker, on that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 230, nays 196, not voting 6, as follows:

[Roll No. 46]

YEAS—230

Addabbo	Glenn	Multer
Addonizio	Granahan	Murphy
Albert	Gray	Natcher
Alexander	Green, Oreg.	Nix
Anfuso	Green, Pa.	O'Brien, Ill.
Ashley	Griffiths	O'Brien, N.Y.
Aspinall	Hagen, Calif.	O'Hara, Ill.
Bailey	Halpern	O'Hara, Mich.
Baldwin	Hansen	O'Konski
Baring	Harding	Olsen
Barrett	Harrison, Wyo.	O'Neill
Bass, Tenn.	Hays	Osmer
Bates	Healey	Patman
Beckworth	Hechler	Perkins
Bennett, Fla.	Hemphill	Peterson
Bennett, Mich.	Holifield	Pfost
Blatnik	Holland	Philbin
Boggs	Holtzman	Pike
Boland	Huddleston	Pirnie
Bolling	Hull	Powell
Brademas	Ichord, Mo.	Price
Breeding	Inouye	Pucinski
Brewster	Jennings	Rabaut
Brooks, La.	Joelsen	Rains
Brooks, Tex.	Johnson, Calif.	Randall
Buckley	Johnson, Md.	Reuss
Burke, Ky.	Johnson, Wis.	Rhodes, Pa.
Burke, Mass.	Jones, Ala.	Rivers, Alaska
Byrnc, Pa.	Jones, Mo.	Roberts
Cahill	Karsten	Rodino
Cannon	Karth	Rogers, Colo.
Carey	Kastenmeier	Rooney
Celler	Kee	Roosevelt
Chelf	Keith	Rostenkowski
Clark	Kelly	Ryan
Coad	Keogh	St. Germain
Cohelan	King, Calif.	Santangelo
Conte	King, Utah	Saund
Cook	Kirwan	Saylor
Cooley	Kluczynski	Schweiker
Corbett	Kornegay	Scranton
Corman	Kowalski	Seely-Brown
Cunningham	Landrum	Shelley
Daddario	Lane	Sheppard
Daniels	Lankford	Shipley
Davis, John W.	Lesinski	Sibal
Davis, Tenn.	Libonati	Sisk
Dawson	Lindsay	Slack
Delaney	Loser	Smith, Iowa
Dent	McCormack	Spence
Denton	McDowell	Stafford
Diggs	McFall	Staggers
Dingell	Macdonald	Stratton
Donohue	Machrowicz	Stubblefield
Doyle	Mack	Sullivan
Dulski	Madden	Taylor
Dwyer	Magnuson	Thomas
Edmondson	Mailliard	Thompson, La.
Elliott	Marshall	Thompson, N.J.
Evins	Martin, Mass.	Thornberry
Fallon	Merrow	Toll
Farbstein	Miller, Clcm	Tollefson
Fascell	Miller,	Trimble
Feighan	George P.	Ullman
Finnegan	Milliken	Vanik
Fino	Mills	Vinson
Flood	Moeller	Wallhauser
Flynt	Monagan	Walter
Fogarty	Montoya	Watts
Fountain	Moore	Whitener
Frazier	Moorhead, Pa.	Wickersham
Friedel	Morgan	Widnall
Fulton	Morris	Willis
Gallagher	Morrison	Wright
Garmatz	Morse	Yates
Glaimo	Moss	Zablocki
Gilbert	Moulder	Zelenko

NAYS—196

Abbitt	Beermann	Chamberlain
Abernethy	Belcher	Chenoweth
Adair	Bell	Chiperfield
Alford	Berry	Church
Alger	Betts	Clancy
Andersen,	Blitch	Collier
Minn.	Bolton	Colmer
Anderson, Ill.	Bonner	Cramer
Andrews	Bow	Curtin
Arends	Boykin	Curtis, Mass.
Ashbrook	Bray	Curtis, Mo.
Ashmore	Bromwell	Dague
Auchincloss	Broomfield	Davis
Avery	Brown	James C.
Ayres	Broyhill	Derounian
Baker	Bruce	Derwinski
Barry	Burleson	Devine
Bass, N.H.	Byrnes, Wls.	Dole
Battin	Casey	Dominick
Becker	Cederberg	Dooley

Dorn	Kilburn	Rivers, S.C.
Dowdy	Kilday	Robison
Downing	Kilgore	Rogers, Fla.
Durno	King, N.Y.	Rogers, Tex.
Ellsworth	Kitchin	Roudebush
Everett	Knox	Rousselot
Fenton	Kyl	Rutherford
Findley	Laird	St. George
Fisher	Langen	Schadeberg
Ford	Latta	Schenck
Forrester	Lennon	Schrer
Frelinghuysen	Lipscomb	Schneebeli
Garland	McCulloch	Schwengel
Gary	McDonough	Scott
Gathings	McIntire	Selden
Gavin	McMillan	Short
Goodell	McVey	Shriver
Goodling	MacGregor	Sikes
Grant	Mahon	Smith, Calif.
Griffin	Martin, Nebr.	Smith, Miss.
Gross	Mason	Smith, Va.
Gubser	Mathias	Springer
Haley	Matthews	Steed
Hall	May	Stephens
Halleck	Meador	Taber
Hardy	Michel	Teague, Calif.
Harris	Miller, N.Y.	Teague, Tex.
Harrison, Va.	Minshall	Thompson, Tex.
Harsha	Moorehead,	Thomson, Wis.
Harvey, Ind.	Ohio	Tuck
Harvey, Mich.	Mosher	Tupper
Hébert	Murray	Utt
Henderson	Nelsen	Van Pelt
Herlong	Norblad	Van Zandt
Hiestand	Norrell	Weaver
Hoeven	Nygaard	Weis
Hoffman, Ill.	Ostertag	Westland
Hoffman, Mich.	Pelly	Whalley
Horan	Pilcher	Wharton
Hosmer	Pillion	Whitten
Ikard, Tex.	Poage	Williams
Jarman	Poff	Wilson, Calif.
Jensen	Quie	Wilson, Ind.
Johansen	Ray	Winstead
Jonas	Reifel	Young
Judd	Rhodes, Ariz.	Younger
Kearns	Riehlman	

NOT VOTING—6

Hagan, Ga.	Passman	Siler
McSween	Riley	

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Passman for, with Mr. Bonner against.

Until further notice:

Mr. Riley with Mr. Siler.

Mr. BONNER. Mr. Speaker, I have a live pair with the gentleman from Louisiana [Mr. PASSMAN]. If he were present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. POWELL. Mr. Speaker, I ask unanimous consent that all Members who spoke on the conference report may revise and extend their remarks and that all other Members may have 5 legislative days to extend their remarks on the conference report.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

APPOINTMENT OF ADDITIONAL CIRCUIT AND DISTRICT JUDGES

Mr. CELLER submitted the following conference report and statement on the bill (S. 912) to provide for the appointment of additional circuit and district judges, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 342)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 912), to provide for the appointment of additional circuit and district judges, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"That (a) the President shall appoint, by and with the advice and consent of the Senate, three additional circuit judges for the second circuit, one additional circuit judge for the third circuit, two additional circuit judges for the fourth circuit, two additional circuit judges for the fifth circuit, one additional circuit judge for the seventh circuit, and one additional circuit judge for the tenth circuit.

"(b) In order that the table contained in section 44(a) of title 28 of the United States Code will reflect the changes made by this section in the number of permanent circuit judges for said circuits, such table is amended to read as follows with respect to said circuits:

Circuits:		Number of Judges	
		*	*
Second	-----	Nine	
Third	-----	Eight	
Fourth	-----	Five	
Fifth	-----	Nine	
		*	*
Seventh	-----	Seven	
		*	*
Tenth	-----	Six	

"Sec. 2. (a) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the northern district of Alabama, one additional district judge for the district of Alaska, one additional district judge for the district of Arizona, one additional district judge for the eastern and western districts of Arkansas, two additional district judges for the northern district of California, two additional district judges for the district of Colorado, two additional district judges for the district of Connecticut, two additional district judges for the southern district of Florida, one additional district judge for the northern district of Georgia, two additional district judges for the northern district of Illinois, one additional district judge for the northern district of Indiana, one additional district judge for the southern district of Indiana, one additional district judge for the northern and southern districts of Iowa, one additional district judge for the district of Kansas, two additional district judges for the eastern district of Louisiana, one additional district judge for the western district of Louisiana, two additional district judges for the district of Maryland, one additional district judge for the district of Massachusetts, two additional district judges for the eastern district of Michigan, one additional district judge for the southern district of Mississippi, one additional district judge for the western district of Missouri, one additional district judge for the district of Nevada, one additional district judge for the district of New Jersey, two additional district judges for the eastern district of New York, six additional district judges for the southern district of New York, one additional district judge for the eastern district of North Carolina, one additional district judge for the middle district of North Carolina, one additional district judge for the western district of North Carolina, one

additional district judge for the northern district of Ohio, one additional district judge for the northern, eastern and western districts of Oklahoma, three additional district judges for the eastern district of Pennsylvania, one additional district judge for the middle district of Pennsylvania, two additional district judges for the western district of Pennsylvania, one additional district judge for the district of Puerto Rico, one additional district judge for the eastern and western districts of South Carolina, one additional district judge for the eastern district of Tennessee, one additional district judge for the middle district of Tennessee, one additional district judge for the western district of Tennessee, two additional district judges for the northern district of Texas, one additional district judge for the southern district of Texas, one additional district judge for the western district of Texas, and one additional district judge for the eastern and western districts of Washington.

"(b) The existing district judgeship for the middle district of Georgia, created by the Act of March 29, 1949 (63 Stat. 16), entitled 'An Act to provide for the appointment of an additional district judge for the middle district of Georgia', and the existing district judgeships for the district of New Mexico, the western district of Pennsylvania, and the district of Utah created by paragraphs (1), (5), and (6), respectively, of section 2(b) of the Act entitled 'An Act to provide for the appointment of additional circuit and district judges, and for other purposes', approved February 10, 1954 (68 Stat. 10, 11), shall be permanent judgeships and the present incumbents of such judgeships shall henceforth hold their offices under section 133 of title 28 of the United States Code as amended by this Act. The Act of March 29, 1949 (63 Stat. 16), and paragraphs (1), (5), and (6) of section 2(b) of the Act of February 10, 1954 (68 Stat. 10, 11), are hereby repealed.

"(c) The existing district judgeship for the eastern and western districts of Washington, heretofore provided for by section 133 of title 28 of the United States Code, shall hereafter be a district judgeship for the western district of Washington only, and the present incumbent of such judgeship shall henceforth hold his office under section 133, as amended by this Act.

"(d) In order that the table contained in section 133 of title 28 of the United States Code will reflect the changes made by this section in the number of permanent district judgeships for said districts and combination of districts, such table is amended to read as follows with respect to said districts:

Districts:		Judges	
		*	*
Alabama:			
Northern	-----	3	
		*	*
Alaska	-----	2	
Arizona	-----	3	
Arkansas:			
		*	*
Eastern and Western	-----	2	
California:			
Northern	-----	9	
Southern	-----	13	
Colorado	-----	3	
Connecticut	-----	4	
		*	*
Florida:			
		*	*
Southern	-----	6	
		*	*
Georgia:			
Northern	-----	3	
Middle	-----	2	
		*	*
Illinois:			
Northern	-----	10	
		*	*

Public Law 87-30
87th Congress, H. R. 3935
May 5, 1961

AN ACT

To amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Labor Standards Amendments of 1961".

Fair Labor Stand-
ards Amendments
of 1961.

DEFINITIONS

SEC. 2. (a) Paragraph (m) of section 3 of the Fair Labor Standards Act of 1938, as amended, defining the term "wage", is amended by inserting before the period at the end thereof a colon and the following: "*Provided*, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further*, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee".

52 Stat. 1061.
29 USC 203.

(b) Paragraph (n) of section 3 of such Act is amended by inserting immediately before "shall not" the following " , except as used in subsection (s) (1),".

63 Stat. 911.

(c) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs:

"(p) 'American vessel' includes any vessel which is documented or numbered under the laws of the United States.

"(q) 'Secretary' means the Secretary of Labor.

"(r) 'Enterprise' means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That, within the meaning of this subsection, a retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not necessarily limited to, an agreement, (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

75 STAT. 65.
75 STAT. 66.

"(s) 'Enterprise engaged in commerce or in the production of goods for commerce' means any of the following in the activities of which

employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

"(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated and if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more;

"(2) any such enterprise which is engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

"(3) any establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;

"(4) any such enterprise which is engaged in the business of construction or reconstruction, or both, if the annual gross volume from the business of such enterprise is not less than \$350,000;

"(5) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000, exclusive of excise taxes at the retail level which are separately stated:

Provided, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce, or a part of an enterprise engaged in commerce or in the production of goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner."

INVESTIGATIONS OF EFFECTS ON EMPLOYMENT OF FOREIGN COMPETITION

52 Stat. 1061.
29 USC 204.

SEC. 3. Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in fact resulted, or is in fact likely to result, from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress: *Provided*, That he may also include in such report information on the increased employment resulting from additional exports in any industry under this Act as he may determine to be pertinent to such report."

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting after the words "production of goods for commerce" wherever they appear, the following: "or employed in any enterprise engaged in commerce or in the production of goods for commerce". 63 Stat. 911. 29 USC 205.

MINIMUM WAGES

SEC. 5. (a) (1) Section 6(a) of such Act is amended by inserting after the word "who" in the portion thereof preceding paragraph (1), the words "in any workweek". 69 Stat. 711. 29 USC 206.

(2) Paragraph (1) of section 6(a) of such Act is amended to read as follows:

"(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section."

(3) The first sentence of paragraph (3) of section 6(a) of such Act is amended to read as follows: 70 Stat. 1118.

"(3) if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time."

(b) Subsection (b) of section 6 of such Act is amended to read as follows: 52 Stat. 1062.

"(b) Every employer shall pay to each of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1), (2), or (4) or by an establishment described in section 3(s) (3) Ante, p. 66. or (5), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Post, p. 71. Amendments of 1961, wages at rates—

"(1) not less than \$1 an hour during the first three years from the effective date of such amendments; not less than \$1.15 an hour during the fourth year from such date; and not less than the rate effective under paragraph (1) of subsection (a) thereafter;

"(2) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement)."

(c) Subsection (c) of section 6 of such Act is amended to read as follows: 63 Stat. 912.

"(c) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the

63 Stat. 911.
29 USC 205.

Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5: *Provided*, That (1) the following rates shall apply to any such employee to whom the rate or rates prescribed by subsection (a) would otherwise apply:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, increased by 15 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1961 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Beginning two years after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 10 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

"(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1961 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

"(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce

such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

“(2) In the case of any such employee to whom subsection (b) would otherwise apply, the Secretary shall within sixty days after the enactment of the Fair Labor Standards Amendments of 1961 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, not in excess of the applicable rate provided by subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1961. 63 Stat. 911.
29 USC 205.
29 USC 208.

“(3) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee.”

MAXIMUM HOURS

SEC. 6. (a) Subsection (a) of section 7 of such Act is amended by designating such subsection as subsection (a)(1), by inserting after the word “who” the words “in any workweek”, and by striking out the period at the end thereof and inserting a semicolon and the word “and” in lieu thereof and adding the following new paragraph (2): 29 USC 207.

“(2) No employer shall employ any of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1) or (4), or by an establishment described in section 3(s) (3), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this subsection, or (ii) is brought within the purview of this subsection by the amendments made to section 13 of this Act by the Fair Labor Standards Amend-
ments of 1961—
Post, p. 71.

“(A) for a workweek longer than forty-four hours during the third year from the effective date of the Fair Labor Standards Amendments of 1961,

“(B) for a workweek longer than forty-two hours during the fourth year from such date,

“(C) for a workweek longer than forty hours after the expiration of the fourth year from such date, unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.”

63 Stat. 913.
29 USC 207.

(b) Subsection (b) of section 7 of such Act is amended by striking out “in excess of forty hours in the workweek” in paragraph (2) and inserting in lieu thereof the following: “in excess of the maximum workweek applicable to such employee under subsection (a)”.

(c) Paragraph (5) of subsection (d) of section 7 of such Act is amended by striking out “forty in a workweek” and inserting in lieu thereof the following: “in excess of the maximum workweek applicable to such employee under subsection (a)”.

(d) Paragraph (7) of subsection (d) of section 7 of such Act is amended by striking out “forty hours” and inserting in lieu thereof the following: “the maximum workweek applicable to such employee under subsection (a)”.

(e) Subsection (e) of section 7 of such Act is amended (1) by striking out “forty hours” and inserting in lieu thereof “the maximum workweek applicable to such employee under subsection (a)”, (2) by striking out “section 6(a)” and inserting in lieu thereof “subsection (a) or (b) of section 6 (whichever may be applicable)”, and (3) by striking out “forty in any” and inserting in lieu thereof “such maximum”.

(f) Subsection (f) of section 7 of such Act is amended by striking out “forty hours” both times it appears therein and inserting in lieu thereof the following: “the maximum workweek applicable to such employee under such subsection”.

(g) Section 7 of such Act is amended by adding at the end thereof the following new subsection:

“(h) No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period (not less than one month) represents commissions on goods or services.”

52 Stat. 1062.
29 USC 206.

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

63 Stat. 915.
29 USC 208.

SEC. 7. Subsection (a) of section 8 of such Act is amended by inserting after the word “industries” where it appears in the first sentence the words “or enterprises”; and by inserting after the words “production of goods for commerce” where they appear in the second sentence the following: “or in any enterprise engaged in commerce or in the production of goods for commerce”.

CHILD LABOR PROVISIONS

29 USC 212.

SEC. 8. Subsection (c) of section 12 of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: “or in any enterprise engaged in commerce or in the production of goods for commerce.”

EXEMPTIONS

SEC. 9. Subsections (a) and (b) of section 13 of such Act are amended to read as follows:

“(a) The provisions of sections 6 and 7 shall not apply with respect to—

“(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except than an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

“(2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, if such establishment—

“(i) is not in an enterprise described in section 3(s), or

63 Stat. 917.
29 USC 213.

“(ii) is in such an enterprise and is a hotel, motel, restaurant, or motion picture theater; or is an amusement or recreational establishment that operates on a seasonal basis, or

“(iii) is in such an enterprise and is a hospital, or an institution which is primarily engaged in the care of the sick, the aged, the mentally ill or defective, residing on the premises of such institution, or a school for physically or mentally handicapped or gifted children, or

52 Stat. 1062;
63 Stat. 912.
29 USC 206,
207.

“(iv) is in such an enterprise and has an annual dollar volume of sales (exclusive of excise taxes at the retail level which are separately stated) which is less than \$250,000.

60 Stat. 237.
5 USC 1001
note.

A ‘retail or service establishment’ shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

Ante, p. 66.

“(3) any employee employed by any establishment engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment's annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, or communications business; or

“(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or

“(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of

animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or

“(6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

52 Stat. 1068.
29 USC 214.

“(7) any employee to the extent that such employee is exempted by regulations or orders of the Secretary issued under section 14; or

“(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where printed and published or counties contiguous thereto; or

Ante, p. 66.

“(9) any employee of a street, suburban or interurban electric railway, or local trolley or motor bus carrier, not in an enterprise described in section 3(s) (2); or

“(10) any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or

“(11) any switchboard operator employed by an independently owned public telephone company which has not more than seven hundred and fifty stations; or

“(12) any employee of an employer engaged in the business of operating taxicabs; or

52 Stat. 1062;
63 Stat. 912.
29 USC 206, 207.

“(13) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

“(14) any employee employed as a seaman on a vessel other than an American vessel; or

“(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed twelve; or

“(16) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his workweek in agriculture by such farmer, and (B) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a) (1); or

Ante, p. 67.

"(17) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm: *Provided*, That no more than five employees are employed in the establishment in such operations; or

"(18) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities; or

"(19) any employee of a retail or service establishment which is primarily engaged in the business of selling automobiles, trucks, or farm implements; or

"(20) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or

"(21) any agricultural employee employed in the growing and harvesting of shade-grown tobacco who is engaged in the processing (including, but not limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling) of such tobacco, prior to the stemming process, for use as cigar wrapper tobacco; or

"(22) any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables.

"(b) The provisions of section 7 shall not apply with respect to— 63 Stat. 912.

"(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

29 USC 207.

"(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

49 Stat. 546.

49 USC 304.

"(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

24 Stat. 379.

49 USC 1 *et seq.*

"(4) any employee employed in the canning, processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or

49 Stat. 1189.

45 USC 181-188.

"(5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

"(6) any employee employed as a seaman; or

"(7) any employee of a street, suburban or interurban electric railway, or local trolley or motorbus carrier; or

"(8) any employee of a gasoline service station; or

"(9) any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located (A) in a city or town of one hundred thousand population or less, according to the latest available decennial census figures as compiled by the Bureau of the Census, except where such city or town is part of a standard metropolitan statistical area, as defined and designated by the Bureau of the Budget, which has a total population in excess of one hundred thousand,

or (B) in a city or town of twenty-five thousand population or less, which is part of such an area but is at least 40 airline miles from the principal city in such area; or

"(10) any employee of an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if (A) the annual gross volume of sales of such enterprise is not more than \$1,000,000 exclusive of excise taxes, and (B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and (C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale; or

"(11) any employee employed as a driver or driver's helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Secretary shall find that such plan has the general purpose and effect of reducing hours worked by such employees to or below, the maximum workweek applicable to them under section 7(a)."

63 Stat. 912.
29 USC 207.
29 USC 213.

SEC. 10. That section 13(d) of such Act, as amended, is amended by inserting before the period at the end thereof the following: "or to any homemaker engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths)".

EMPLOYMENT OF STUDENTS

52 Stat. 1068.
29 USC 214.

SEC. 11. Clause (1) of section 14 of such Act is amended by striking out "and" after "apprentices," and by inserting after "messages," the following: "and of full-time students outside of their school hours in any retail or service establishment: *Provided*, That such employment is not of the type ordinarily given to a full-time employee,".

PENALTIES AND INJUNCTION PROCEEDINGS

29 USC 216.

SEC. 12. (a) Section 16(b) of such Act is amended by adding at the end thereof a new sentence as follows: "The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection."

63 Stat. 919.
29 USC 217.

29 USC 206, 207.

(b) Section 17 of such Act is amended to read as follows:

"INJUNCTION PROCEEDINGS

52 Stat. 1068.
29 USC 215.

"SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15(a)(2) the restraint of any withholding of payment of minimum wages or overtime compensation

May 5, 1961

- 11 -

Pub. Law 87-30

75 STAT. 75.

found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947)."

61 Stat. 87.

29 USC 255.

STUDY OF AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS AND RATES OF PAY IN HOTELS, MOTELS, RESTAURANTS, AND OTHER FOOD SERVICE ENTERPRISES

SEC. 13. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(b)(3), 7(c), and 13(a)(10), and the complex problems involving rates of pay of employees in hotels, motels, restaurants, and other food service enterprises who are exempted from the provisions of this Act, and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

63 Stat. 912;

ante, p. 71.

29 USC 207, 213.

52 Stat. 1062.

29 USC 204.

Report to

Congress.

EFFECTIVE DATE

SEC. 14. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided in such amendments and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act.

52 Stat. 1060.

29 USC 201.

Approved May 5, 1961.

Calendar No. 127

87TH CONGRESS
1ST SESSION

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 18, 1961

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. MORSE to the (H.R. 3935)
to amend the Fair Labor Standards Act of 1938, as amended,
to provide coverage for employees of large enterprises
engaged in retail trade or service and of other employers
engaged in commerce or in the production of goods for com-
merce, to increase the minimum wage under the Act to
\$1.25 an hour, and for other purposes, viz:

- 1 On page 33, strike out lines 11 through 17 and insert
- 2 in lieu thereof the following: "*Provided*, That this clause
- 3 (15) shall not apply to any such employee if the land on
- 4 which such employee is engaged in such lumbering or
- 5 forestry operations is owned or controlled, directly or in-
- 6 directly, by an enterprise engaged in the production of pulp,
- 7 paper, or other wood products or is owned by the United
- 8 States, any State, or any county or other local government."

87TH CONGRESS
1ST SESSION

H. R. 3935

AMENDMENT

Intended to be proposed by Mr. Morse to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 18, 1961

Ordered to lie on the table and to be printed

Calendar No. 127

87TH CONGRESS
1ST SESSION

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1961

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. GOLDWATER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz: On page 16, between lines 2 and 3, insert the following new subsection:

- 1 Paragraph (d) of section 3 of the Fair Labor Standards
- 2 Act of 1938, as amended, defining the term "employer," is
- 3 amended by inserting before the period at the end thereof a
- 4 comma and the following: "or any organization which is
- 5 exempted from taxation by the provisions of section 501(c)
- 6 (3) of the Internal Revenue Code of 1954, as amended".

87TH CONGRESS
1ST SESSION

H. R. 3935

AMENDMENT

Intended to be proposed by Mr. GOLDWATER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 13, 1961

Ordered to lie on the table and to be printed

Calendar No. 127

87TH CONGRESS
1ST SESSION

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1961

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. HOLLAND to the committee amendment to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

1 On page 13, beginning with line 6, strike out through
2 line 2 on page 16, and insert the following:

3 “(r) ‘Transit carrier engaged in commerce’ means a
4 street, suburban, or interurban electric railway, or local
5 trolley or motorbus carrier, which has employees engaged in
6 commerce or in the production of goods for commerce.”

7 On page 17, lines 6 and 7, strike out “in any en-

1 terprise engaged in commerce or in the production of goods
2 for commerce” and insert “by any transit carrier engaged
3 in commerce”.

4 On page 18, line 16, beginning with “(i)” strike out
5 through “(6)” in line 20 and insert the following: “(i) is
6 employed by a transit carrier engaged in commerce, as de-
7 fined in section 3 (r) ”.

8 On page 24, line 17, beginning with “(i)” strike out
9 through “(ii)” in line 23.

10 On page 27, line 13, strike out “or enterprises” and
11 insert “or transit carriers”.

12 On page 27, lines 16 and 17, strike out “in any enter-
13 prise engaged in commerce or in the production of goods
14 for commerce” and insert “by transit carriers engaged in
15 commerce”.

16 On page 27, lines 21 to 23, strike out “any enterprise
17 engaged in commerce or in the production of goods for
18 commerce” and insert “the activities of any transit carrier
19 engaged in commerce”.

20 On page 28, beginning with line 6, strike out through
21 line 21 on page 30 and insert the following:

22 “(1) any employee employed in a bona fide execu-
23 tive, administrative, professional, or local retailing
24 capacity, or in the capacity of outside salesman (as such
25 terms are defined and delimited by regulations of the

Secretary, subject to the provisions of the Administrative Procedure Act) ; or

“(2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment’s annual dollar volume of sales of goods or services is made within the State in which the establishment is located. A ‘retail or service establishment’ shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

“(3) any employee employed by any establishment engaged in laundering, cleaning or repairing clothing or fabrics, more than 50 per centum of which establishment’s annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment’s annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, or communications business; or”.

Amend the title so as to read: “An Act to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for certain employees engaged in commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.”

AMENDMENTS

Intended to be proposed by Mr. HOLLAND to the committee amendment to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 13, 1961

Ordered to lie on the table and to be printed

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1961

Ordered to lie on the table and to be printed

AMENDMENTS

(IN THE NATURE OF A SUBSTITUTE)

Intended to be proposed by Mr. RUSSELL to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz: In lieu of the language of the committee amendment, insert the following:

1 That this Act may be cited as the "Fair Labor Stand-
2 ards Amendments of 1961".

3 SEC. 2. Section 6 (a) (1) of the Fair Labor Standards
4 Act of 1938, as amended, is amended to read as follows:

5 “(1) not less than \$1.15 an hour during the first
6 two years from the effective date of the Fair Labor

1 Standards Amendments of 1961, and not less than \$1.25
2 an hour thereafter, except as otherwise provided in this
3 section;”.

4 SEC. 3. The Secretary of Labor shall study the com-
5 plicated system of exemptions now available for the handling
6 and processing of agricultural products under such Act and
7 particularly sections 7 (c) , 13 (a) (10) , and 7 (b) (3) , and
8 shall submit to the second session of the Eighty-seventh Con-
9 gress at the time of his report under section 4 (d) of such
10 Act a special report containing the results of such study
11 and information, data, and recommendations for further legis-
12 lation designed to simplify and remove the inequities in the
13 application of such exemptions.

14 SEC. 4. This Act shall take effect upon the expiration
15 of one hundred and twenty days after the date of its enact-
16 ment.

Amend the title so as to read: “An Act to amend the
Fair Labor Standards Act of 1938, as amended, to increase
the minimum wage under the Act, and for other purposes.”

AMENDMENTS

(IN THE NATURE OF A SUBSTITUTE)

Intended to be proposed by Mr. RUSSELL to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 13, 1961

Ordered to lie on the table and to be printed

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1961

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. GOLDWATER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

1 On page 14, beginning with line 5, strike out all through
2 line 10, and insert in lieu thereof the following:

3 “(s) ‘Enterprise engaged in an activity affecting com-
4 merce’ includes any activity, business, or industry in com-
5 merce or necessary to commerce or to the production of
6 goods for, or the distribution of goods in commerce, and
7 means any of the following which is engaged in any ac-
8 tivity affecting commerce:”.

1 Strike out the words “enterprise engaged in com-
2 merce or in the production of goods for commerce” wher-
3 ever they appear in the bill and insert in lieu thereof the
4 words “enterprise engaged in an activity affecting commerce”.

5 On page 15, lines 19, 20, and 21, strike out the
6 words “enterprise engaged in commerce or the production
7 of goods for commerce” and insert in lieu thereof the words
8 “enterprise engaged in an activity affecting commerce”.

9 On page 17, lines 3 through 7, strike out all of section
10 4, and insert in lieu thereof the following:

11 “SEC. 4. Subsection (a) of section 5 of such Act is
12 amended by inserting after the words ‘production of goods
13 for commerce’ wherever they appear, the following: ‘or em-
14 ployed in any enterprise engaged in an activity affecting
15 commerce.’ ”

16 On page 18, lines 16, 17, and 18, strike out the words
17 “enterprise engaged in commerce or the production of goods
18 for commerce” and insert in lieu thereof “enterprise engaged
19 in an activity affecting commerce”.

20 On page 27, lines 11 through 17, strike out all of section
21 7 and insert in lieu thereof the following:

22 “SEC. 7. Subsection (a) of section 8 of such Act is
23 amended by inserting after the words ‘production of goods
24 for commerce’ where they appear in the second sentence

1 the following: 'or in any enterprise engaged in an activity
2 affecting commerce.' ”

3 On page 27, lines 19 through 23, strike out all of sec-
4 tion 8 and insert in lieu thereof the following:

5 “SEC. 8. Subsection (c) of section 12 of such Act is
6 amended by striking out the period at the end thereof and
7 inserting in lieu thereof the following: 'or in any enter-
8 prise engaged in an activity affecting commerce.' ”

AMENDMENTS

Intended to be proposed by Mr. GOLDWATER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 13, 1961

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H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1961

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AMENDMENT

Intended to be proposed by Mr. GOLDWATER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

- 1 On page 13, line 12, beginning with the comma, strike
- 2 out all through line 4 on page 14 and insert in lieu thereof
- 3 a colon and the following: "*Provided*, That within the mean-
- 4 ing of this subsection, an enterprise which is under inde-
- 5 pendent ownership and control and which conducts its ac-
- 6 tivities as an independent contractor, shall be deemed to be
- 7 a separate and distinct enterprise."

87TH CONGRESS
1ST Session

H. R. 3935

AMENDMENT

Intended to be proposed by Mr. GOLDWATER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 13, 1961

Ordered to lie on the table and to be printed

Calendar No. 127

87TH CONGRESS
1ST SESSION

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1961

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. GOLDWATER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

1 On page 16, lines 7 through 20, strike out all of sub-
2 section (e) and insert in lieu thereof the following:

3 “(e) (1) On his own motion, or upon the complaint by
4 any labor organization, trade association, or industry group
5 that an article is being imported into the United States in
6 such substantial and increasing ratio to domestic production
7 of like or competitive articles as to threaten or undermine
8 the maintenance of the minimum standards of living neces-

1 sary for the health, efficiency, and general well-being of the
2 American workers affected, due in whole or part to the fact
3 that as a result of being produced under labor conditions
4 below the minimum standards required by the laws of the
5 United States and the several States to be maintained by the
6 domestic producers supplying the like or competitive articles
7 in the principal markets of the United States where the un-
8 fair import competition is encountered, such imported article
9 is being sold with an unfair competitive advantage in rela-
10 tion to the like or competitive articles of domestic origin, the
11 Secretary of Labor shall promptly make an investigation
12 which shall include hearings on reasonable public notice at
13 which interested parties may be present, produce evidence,
14 and be heard.

15 “(2) If the Secretary thereupon shall find the existence
16 of such facts, he shall recommend to the President that
17 such article be permitted entry into the United States only
18 upon such terms and conditions and subject to the payment
19 of such import duties (in addition to any duties otherwise
20 provided by law) and to such limitations in the total quan-
21 tity which may be imported (in the course of any specified
22 period or periods), either on a global or country-of-origin
23 basis, as he shall find necessary in order to prevent the con-
24 tinuation of such conditions.

25 “(3) Upon receipt of the report of the Secretary’s

1 investigation, findings, and recommendations, the President
2 may by proclamation make effective the Secretary's recom-
3 mendations, and the Secretary of the Treasury shall, through
4 the proper Customs officers, permit entry of the article or
5 articles specified only on the terms and conditions and sub-
6 ject to such import duties, and to such quotas as the Presi-
7 dent shall have directed in his proclamation.

8 “(4) Any conditions, duties, and quotas imposed on
9 the entry of an article under this section shall continue in
10 effect until the President acting on a recommendation of
11 the Secretary of Labor pursuant to findings made in a sup-
12 plemental investigation held not less frequently than biannu-
13 ally, thereafter shall terminate or modify his proclamation
14 on finding that the conditions on which it was based no
15 longer exist.”

AMENDMENT

Intended to be proposed by Mr. Goldwater to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 13, 1961

Ordered to lie on the table and to be printed

Calendar No. 127

87TH CONGRESS
1ST SESSION

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1961

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. GOLDWATER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

1 On page 32, line 20 through line 22, strike all of para-
2 graph (11) and insert in lieu thereof the following:

3 “(11) any switchboard operator employed in a
4 public telephone exchange which has not more than
5 seven hundred and fifty stations: *Provided*, That this
6 paragraph shall cease to be operative at the expiration
7 of four years from the effective date of the Fair Labor
8 Standards Amendments of 1961.”

8TH CONGRESS
1ST Session

H. R. 3935

AMENDMENT

Intended to be proposed by Mr. Goldwater to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 13, 1961

Ordered to lie on the table and to be printed

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1961

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. GOLDWATER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

1 On page 30, line 7, strike out the word "commercial".

AMENDMENT

Intended to be proposed by Mr. Goldwater to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 13, 1961

Ordered to lie on the table and to be printed

1 wrapper tobacco by agricultural employees employed in the
2 growing and harvesting of such tobacco, which processing
3 shall include, but shall not be limited to, drying, curing,
4 fermenting, bulking, rebulking, sorting, grading, aging, and
5 baling, prior to the stemming process,” and in the case of
6 fruits and vegetables includes (1) transportation and prepa-
7 ration for transportation, whether or not performed by the
8 farmer, of the commodity from the farm to a place of first
9 processing or first marketing within the same State, (2)
10 transportation, whether or not performed by the farmer, be-
11 tween the farm and any point within the same State of per-
12 sons employed or to be employed in the harvesting of the
13 commodity.

14 (b) Paragraph (m) of section 3 of such Act, defining
15 the term “wage”, is amended by inserting before the period
16 at the end thereof a colon and the following: “*Provided, That*
17 the cost of board, lodging, or other facilities shall not be in-
18 cluded as a part of the wage paid to any employee to the
19 extent it is excluded therefrom under the terms of a bona
20 fide individual contract or collective bargaining agreement
21 applicable to the particular employee”.

22 (c) Section 3 of such Act is further amended by adding
23 at the end thereof the following new paragraphs:

24 “(p) ‘Secretary’ means the Secretary of Labor.

25 “(q) ‘Enterprise’ means the related activities performed

(either through unified operation or common control) by any person or persons for a common retail business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units but shall not include the related activities performed for such enterprise by an independent contractor:

Provided, That, within the meaning of this subsection, a local retail establishment which is under independent ownership and control shall not be deemed to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not limited to, an agreement (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such local establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments.

“(r) ‘Enterprise engaged in commerce or in the production of goods for commerce’ means any enterprise which has five or more retail establishments and which operates such establishments in two or more States.

“(s) ‘Retail establishment’ shall mean an establishment

1 75 per centum of whose annual dollar volume of sales of
2 goods is not for resale and is recognized as retail sales in the
3 particular industry, but shall not include an establishment
4 which is primarily a service establishment such as (but not
5 limited to) hotels, motels, restaurants (including lunch
6 counters, cafeterias, and drive-ins), caterers, hospitals, laun-
7 dry or drycleaning establishments, motion-picture theaters,
8 amusement or recreational establishments, parking lots,
9 beauty or barber shops, and repair shops.”

10 INVESTIGATIONS OF EFFECTS OF FOREIGN COMPETITION ON
11 EMPLOYMENT

12 SEC. 3. Section 4 of such Act is amended by adding at
13 the end thereof the following new subsection:

14 “(e) Whenever the Secretary has reason to believe that
15 in any industry under this Act the competition of foreign
16 producers in United States markets or in markets abroad,
17 or both, has resulted, or is likely to result, in increased un-
18 employment in the United States, he shall undertake an in-
19 vestigation to gain full information with respect to the matter
20 and shall make a full and complete report of his findings and
21 determinations to the President and to the Congress.”

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND
THE VIRGIN ISLANDS

SEC. 4. Subsection (a) of section 5 of such Act is amended by inserting, after the words "production of goods for commerce" wherever they appear, the following: "or employed by a retail establishment of an enterprise engaged in commerce or in the production of goods for commerce".

MINIMUM WAGES

SEC. 5. (a) (1) Section 6 (a) of such Act is amended by inserting, after the word "who" in the portion thereof preceding paragraph (1), the words "in any workweek".

(2) Paragraph (1) of section 6 (a) of such Act is amended to read as follows:

"(1) not less than \$1.15 an hour, except as otherwise provided in this section;".

(3) The first sentence of paragraph (3) of section 6 (a) of such Act is amended to read as follows:

"(3) if such employee is employed in American Samoa, in lieu of the rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with

1 recommendations of a special industry committee or
2 committees which he shall appoint in the same manner
3 and pursuant to the same provisions as are applicable
4 to the special industry committees provided for Puerto
5 Rico and the Virgin Islands by this Act as amended
6 from time to time.”

7 (b) Subsection (b) of section 6 of such Act is amended
8 to read as follows:

9 “(b) Every employer shall pay to each of his em-
10 ployees who in any workweek (i) is employed by a retail
11 establishment of an enterprise engaged in commerce or in
12 the production of goods for commerce, as defined in section
13 3 (r), and who, except for the enactment of the Fair
14 Labor Standards Amendments of 1961, would not be
15 within the purview of this section, or (ii) is brought
16 within the purview of this section by the amendments made
17 to section 13 (a) of this Act by the Fair Labor Standards
18 Amendments of 1961, wages at the rate of not less than
19 \$1.05 an hour.”

20 (c) Subsection (c) of section 6 of such Act is amended
21 by changing the period at the end thereof to a colon, and
22 adding the following: “*Provided further*, That the Secre-
23 tary shall within sixty days after the enactment of the Fair
24 Labor Standards Amendments of 1961 appoint a special
25 industry committee in accordance with section 5 to recom-

1 mend the highest minimum wage rate or rates, in accordance
 2 with the standards prescribed by section 8, not in excess of
 3 the applicable rate provided by subsection (b), to be appli-
 4 cable to such employee in lieu of the rate prescribed by
 5 subsection (b). The rate or rates recommended by the
 6 special industry committee shall be effective with respect
 7 to such employee upon the effective date of the wage order
 8 issued pursuant to such recommendation but not before sixty
 9 days after the effective date of the Fair Labor Standards
 10 Amendments of 1961.”

11 MAXIMUM HOURS

12 SEC. 6. Subsection (a) of section 7 of such Act is
 13 amended by inserting after the word “who” the words “in
 14 any workweek”.

15 WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

16 SEC. 7. (a) Section 8 of such Act is amended by insert-
 17 ing after “section 6 (a)” wherever such words appear the
 18 following: “or in section 6 (b), whichever may be appli-
 19 cable”.

20 (b) Subsection (a) of section 8 of such Act is further
 21 amended by inserting after the word “industries” where it
 22 appears in the first sentence the words “or retail establish-
 23 ments of enterprises”; and by inserting after the words “pro-
 24 duction of goods for commerce” where they appear in the
 25 second sentence the following: “or by any retail establish-

1 ment of an enterprise engaged in commerce or in the produc-
2 tion of goods for commerce.”

3 CHILD LABOR PROVISIONS

4 SEC. 8. Subsection (c) of section 12 of such Act is
5 amended by striking out the period at the end thereof and
6 inserting in lieu thereof the following: “or in any retail
7 establishment of an enterprise engaged in commerce or in the
8 production of goods for commerce.”

9 EXEMPTIONS

10 SEC. 9. (a) Clause (1) of section 13 (a) of such Act
11 is amended to read as follows: “(1) any employee employed
12 in a bona fide executive, administrative, or professional
13 capacity, or in the capacity of outside salesman (as such
14 terms are defined and delimited from time to time by regu-
15 lations of the Secretary, subject to the provisions of the Ad-
16 ministrative Procedure Act, except that an employee of a re-
17 tail establishment shall not be excluded from the definition of
18 employee employed in a bona fide executive or adminis-
19 trative capacity because of the number of hours in his work-
20 week which he devotes to activities not directly or closely
21 related to the performance of executive or administrative
22 activities, if less than 40 per centum of his hours worked in
23 the workweek are devoted to such activities) ; or”.

24 (b) Clause (2) of section 13 (a) of such Act is
25 amended to read as follows: “(2) any employee employed

1 by any retail or service establishment (except a retail estab-
2 lishment in an enterprise engaged in commerce or in the pro-
3 duction of goods for commerce, other than such a retail es-
4 tablishment which has an annual dollar volume of sales
5 (exclusive of excise taxes at the retail level which are sep-
6 arately stated) of less than \$250,000), more than 50 per
7 centum of which establishment's annual dollar volume of sales
8 of goods or services is made within the State in which the
9 establishment is located. A retail or service establishment
10 shall mean an establishment 75 per centum of whose annual
11 dollar volume of sales of goods or services (or of both) is
12 not for resale and is recognized as retail sales or services in
13 the particular industry; or".

14 (c) Clause (13) of section 13 (a) of such Act is
15 amended to reads as follows: "(13) any employee or
16 proprietor in a retail or service establishment which qualifies
17 as an exempt retail or service establishment under clause
18 (2) of this subsection with respect to whom the provisions
19 of sections 6 and 7 would not otherwise apply, engaged in
20 handling telegraphic messages for the public under an agency
21 or contract arrangement with a telegraph company where
22 the telegraph message revenue of such agency does not
23 exceed \$500 a month; or".

24 (d) Section 13 (a) of such Act is amended by changing
25 the period at the end thereof to a semicolon and adding the

1 following: “or (16) any employee employed by a retail
2 establishment who is employed in connection with a lunch
3 counter, restaurant, or cafeteria in such establishment; or
4 (17) any employee of a retail gasoline establishment; or
5 (18) any employee of an establishment which is primarily
6 engaged in the business of selling automobiles, trucks, or
7 farm implements.”

8 (e) Section 13 (b) of such Act is amended by changing
9 the period at the end thereof to a semicolon and adding the
10 following: “or (6) any employee employed as an announcer,
11 news editor, or chief engineer by a radio or television station
12 the major studio of which is located in a city or town of one
13 hundred thousand population or less, according to the latest
14 available decennial census figures as compiled by the United
15 States Bureau of Census, except where such city or town
16 is part of a standard metropolitan area as defined and desig-
17 nated by the Bureau of Census, which has a total population
18 in excess of one hundred thousand; or (7) any employee em-
19 ployed by a retail establishment of an enterprise engaged in
20 commerce or in the production of goods for commerce whose
21 minimum rate of wages is governed by section 6 (b) of this
22 Act; or (8) any employee employed in a bona fide local
23 retailing capacity (as such term is defined and delimited from
24 time to time by regulations of the Secretary, subject to the
25 provisions of the Administrative Procedure Act).”

EMPLOYMENT OF STUDENTS

SEC. 10. Clause (1) of section 14 of such Act is amended by striking out "and" after "apprentices," and by inserting after "messages", the following: "and of full-time students outside of their school hours,".

STUDY TO SIMPLIFY AND REMOVE INEQUITIES IN AGRICULTURAL HANDLING AND PROCESSING EXEMPTIONS

SEC. 11. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7 (b) (3), 7 (c), and 13 (a) (10), and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4 (d) of such Act a special report containing the results of such study and information, data, and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

EFFECTIVE DATE

SEC. 12. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938 and amendments thereto, including amendments made by this

AMENDMENT

(IN THE NATURE OF A SUBSTITUTE)

Proposed by Mr. DIRKSEN to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 13, 1961

Ordered to be printed

- 1 Act, may be exercised by the Secretary on and after the
- 2 date of enactment of this Act.

Calendar No. 127

87TH CONGRESS
1ST SESSION

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1961

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. MONRONEY to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

1 On page 14, strike out lines 5 to 25, inclusive, and
2 insert in lieu thereof the following:

3 “(s) ‘Enterprise engaged in commerce or in the pro-
4 duction of goods for commerce’ means:

5 “(1) any enterprise which operates retail or serv-
6 ice establishments in two or more States;

7 “(2) any enterprise which is engaged in the busi-

1 ness of construction or reconstruction, or both, and which
2 engages in such business in two or more States;”.

3 On page 15, line 9, strike out the semicolon and insert
4 in lieu thereof a colon.

5 On page 15, strike out lines 10 to 17, inclusive.

6 On page 18, line 18, strike out “(3), or (5)” and in-
7 sert in lieu thereof “or (3)”.

8 On page 18, lines 19 and 20, strike out “or (6)”.

9 On page 24, line 19, strike out “(1), (2), or (5)”
10 and insert in lieu thereof “(1) or (2)”.

11 On page 29, line 24, strike out “3 (s) (2)” and insert
12 in lieu thereof “3 (s) (1)”.

AMENDMENTS

Intended to be proposed by Mr. MONRONEY to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 13, 1961

Ordered to lie on the table and to be printed

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1961

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. GOLDWATER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

- 1 On page 13, line 15, strike out the word "local".
- 2 On page 13, line 15, strike out the word "establishment"
- 3 and insert in lieu thereof the word "enterprise".

AMENDMENTS

Intended to be proposed by Mr. Goldwater to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 13, 1961

Ordered to lie on the table and to be printed

Calendar No. 127

87TH CONGRESS
1ST SESSION

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1961

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. GOLDWATER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

- 1 On page 12, line 15, after the word "bona-fide", insert
- 2 the words "individual contract or".

4-13-61—L

H. R. 3935

AMENDMENT

Intended to be proposed by Mr. Goldwater to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 13, 1961

Ordered to lie on the table and to be printed

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1961

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. COOPER (for himself, Mr. MORTON, Mr. BOGGS, Mr. JOHNSTON, and Mr. HOLLAND) to the committee amendment to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

- 1 On page 25, strike out lines 17 to 25, inclusive.
- 2 Redesignate subsections (d) to (h), inclusive, as (c) to
- 3 (g), respectively.

87TH CONGRESS
1ST Session

H. R. 3935

AMENDMENTS

Intended to be proposed by Mr. Cooper (for himself, Mr. Morton, Mr. Boeggs, Mr. Johnston, and Mr. Holland) to the committee amendment to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 13, 1961

Ordered to lie on the table and to be printed

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1961

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. GOLDWATER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

- 1 On page 13, line 15, strike out the words "retail or
- 2 service".

AMENDMENT

Intended to be proposed by Mr. GOLDWATER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employees engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 13, 1961

Ordered to lie on the table and to be printed

Calendar No. 127

87TH CONGRESS
1ST SESSION

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 14, 1961

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. MORTON to the amendment proposed by Mr. DIRKSEN (in the nature of a substitute) to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

- 1 On page 5, lines 14 and 15, strike out paragraph (1)
- 2 and insert in lieu thereof the following:
- 3 “(1) not less than \$1.15 an hour during the first two
- 4 years from the effective date of the Fair Labor Standards
- 5 Amendments of 1961, and not less than \$1.25 an hour there-
- 6 after, except as otherwise provided in this section.”

1 On page 6, strike out all of lines 18 and 19, and insert
2 in lieu thereof the following:

3 “Amendments of 1961, wages at rates not less than
4 \$1.05 an hour during the first two years from the effective
5 date of such amendments; not less than \$1.15 an hour dur-
6 ing the third year from such date; and not less than the rate
7 effective under paragraph (1) of subsection (a) thereafter.”

Calendar No. 127

87TH CONGRESS
1ST SESSION

H. R. 3935

AMENDMENTS

Intended to be proposed by Mr. MORRIS to the amendment proposed by Mr. DIRksen (in the nature of a substitute) to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 14, 1961

Ordered to lie on the table and to be printed

Calendar No. 127

87TH CONGRESS
1ST SESSION

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 14, 1961

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. BUTLER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

1 On page 31, line 7 through line 15, strike the entire
2 subsection (5), and insert in lieu thereof the following:

3 “(5) any employee employed in the catching, tak-
4 ing, harvesting, cultivating, or farming of any kind of
5 fish, shellfish, crustacea, sponges, seaweeds, or other
6 aquatic forms of animal and vegetable life, including
7 the going to and returning from work and including em-
8 ployment in the loading, unloading, or packing of such

1 products for shipment or in propagating, processing
2 (other than canning), marketing, freezing, curing, stor-
3 ing, or distributing the above products or byproducts
4 thereof; or”.

5 On page 34, line 6 through line 10, strike the entire
6 paragraph (4) and insert in lieu thereof the following:

7 “(4) any employee employed in the canning of any
8 kind of fish, shellfish, or other aquatic forms of animal
9 or vegetable life, or any byproduct thereof; or”.

87TH CONGRESS
1ST SESSION

H. R. 3935

AMENDMENTS

Intended to be proposed by Mr. BUTLER to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 14, 1961

Ordered to lie on the table and to be printed

Calendar No. 127

87TH CONGRESS
1ST SESSION

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 18, 1961

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. SMATHERS to the committee amendment to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

- 1 On page 14, strike out lines 20 to 25, inclusive.
- 2 On page 15, line 1, strike out “(3)” and insert “(2)”.
- 3 On page 15, line 4, strike out “(4)” and insert “(3)”.
- 4 On page 15, line 10, strike out “(5)” and insert “(4)”.
- 5 On page 15, line 14, strike out “(6)” and insert “(5)”.
- 6 On page 18, line 18, strike out “(3), or (5)” and insert
- 7 “or (4)”.

1 On page 18, lines 19 and 20, strike out “(4) or (6)”
2 and insert “(3) or (5)”.

3 On page 24, line 19, strike out “(1), (2), or (5)” and
4 insert “(1) or (4)”.

5 On page 24, line 20, strike out “(4)” and insert “(3)”.

6 On page 29, lines 23 and 24, strike out “(except an
7 establishment in an enterprise described in section 3(s)
8 (2))”.

9 On page 30, line 7, strike out the word “commercial.”.

10 On page 30, line 8, beginning with the word “*Pro-*
11 *vided*”, strike out through the colon in line 14.

H. R. 3035

Enacted by the Senate and House of Representatives

July 19, 1901

AMENDMENTS

Enacted by the Senate and House of Representatives
H. R. 3035

87TH CONGRESS
1ST SESSION

H. R. 3935

AMENDMENTS

Intended to be proposed by Mr. SALVENDY to the committee amendment to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 and hour, and for other purposes.

APRIL 18, 1961

Ordered to lie on the table and to be printed

Calendar No. 127

87TH CONGRESS
1ST SESSION

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 18, 1961

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. THURMOND to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

1 On page 18, strike out line 25 and on page 19, strike
2 out lines 1-6 and insert in lieu thereof the following:
3 “ments of 1961, wages at the rate of—

4 “(1) not less than \$1.00 an hour;”

5 On page 23, line 8, strike out the words “or rates”.

6 On page 24, beginning with line 10, strike out all
7 through line 16 on page 25, and insert in lieu thereof the
8 following:

1 “SEC. 6. (a) Subsection (a) of section 7 of such Act
2 is amended by inserting after the word ‘who’ the words ‘in
3 any workweek’.”

4 On page 26, beginning with line 1, strike out all through
5 line 9 on page 27.

6 On page 36, line 3, strike out the period and substitute
7 in lieu thereof a semicolon and the following language:
8 “(13) or any employee whose minimum rate of wages is
9 governed by section 6 (b) of this Act.”

AMENDMENTS

1 The following amendments are proposed to be made to the
2 Act, to wit:—
3 Section 6 (a) of section 7 of such Act is amended by
4 inserting after the word ‘who’ the words ‘in any workweek’.
5 On page 26, beginning with line 1, strike out all through
6 line 9 on page 27.

7 On page 36, line 3, strike out the period and substitute
8 in lieu thereof a semicolon and the following language:
9 “(13) or any employee whose minimum rate of wages is
10 governed by section 6 (b) of this Act.”

11 Approved:—

AMENDMENTS

OF THE

CONSTITUTION

OF THE UNITED STATES OF AMERICA

AMENDMENTS

OF THE CONSTITUTION

H. R. 3832

87TH CONGRESS
1ST Session

H. R. 3935

AMENDMENTS

Intended to be proposed by Mr. THURMOND to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 18, 1961

Ordered to lie on the table and to be printed

H. R. 3935

IN THE SENATE OF THE UNITED STATES

APRIL 18, 1961

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. McCARTHY to the committee amendment to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes, viz:

- 1 On page 35, line 4, before the semicolon insert a comma
- 2 and the following: “, or if such city is a part of such an area
- 3 but has a population of not more than twenty-five thousand
- 4 and such station’s major studio is at least forty airline miles
- 5 from the principal city in such area”.

87TH CONGRESS
1ST SESSION

H. R. 3935

AMENDMENT

Intended to be proposed by Mr. McCARTHY to the committee amendment to the bill (H.R. 3935) to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and of other employers engaged in commerce or in the production of goods for commerce, to increase the minimum wage under the Act to \$1.25 an hour, and for other purposes.

APRIL 18, 1961

Ordered to lie on the table and to be printed